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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION

ANNOTATED COMPILATION OF  
AGRICULTURAL ADJUSTMENT ACT  
AS AMENDED  
AND  
ACTS RELATING THERETO

AT THE CLOSE OF THE FIRST SESSION  
OF THE 74th CONGRESS, AUGUST 26, 1935



COMPILED UNDER THE DIRECTION OF  
THE SOLICITOR



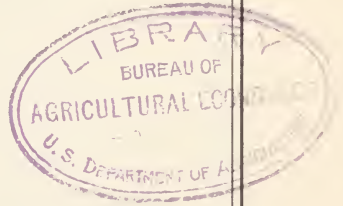


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## PREFATORY NOTE

Throughout the text of this document italics and black face type are used to indicate matter added by the Seventy-third and Seventy-fourth Congress, respectively, by way of amendment since the passage of the original Agricultural Adjustment Act, Public No. 10, Seventy-third Congress, Title I, approved May 12, 1933.

Two forms of notes have been used. Those of an explanatory nature are made footnotes and are numbered consecutively. Those containing the statutory citations for the amendatory legislation are placed in the body of the Act immediately subsequent to the sections or paragraphs which they amend. In instances where the language of the original Act was stricken or changed, comparative prints are used, in which heavy black brackets indicate deleted matter. In the event deletions have been made by legislation of both the Seventy-third and Seventy-fourth Congress, the former are distinguished from the latter by the use of light brackets. In several instances, where there was only one deletion in a section or paragraph, the matter stricken is set forth in a numbered footnote.





# ANNOTATED COMPILATION OF AGRICULTURAL ADJUSTMENT ACT, AS AMENDED, AND ACTS RELATING THERETO

## AGRICULTURAL ADJUSTMENT ACT, AS AMENDED, AT THE CLOSE OF THE FIRST SESSION OF THE 74TH CONGRESS, AUGUST 26, 1935

### AN ACT

To relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I—AGRICULTURAL ADJUSTMENT <sup>1</sup>

#### DECLARATION OF EMERGENCY

That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously impaired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this Act.

#### DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress—

(1)<sup>2</sup> Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period; and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July

<sup>1</sup> Original Act was Title I of Public No. 10, 73d Congress (H. R. 3835) 48 Stat. 31 (1933); 7 U. S. C. §601 et seq. By sec. 8 (a) of the National Industrial Recovery Act, Title I may be referred to as the "Agricultural Adjustment Act". (For text of sec. 8 see p. 60.)

<sup>2</sup> Deletion: The word "To" stricken by sec. 1 (a) of Public No. 320, 74th Congress, approved August 24, 1935.

1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period. The base period in the case of all agricultural commodities except tobacco and potatoes shall be the prewar period, August 1909–July 1914. In the case of tobacco and potatoes, the base period shall be the postwar period, August 1919–July 1929.

The matter in black face type was added by sec. 1 (a) of Public No. 320, 74th Congress, approved August 24, 1935, except that the words "and potatoes" were added by sec. 62 of said Public No. 320.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

SEC. 1 (b) of Public No. 320, 74th Congress, approved August 24, 1935, inserts the preceding subsec. "(2)" in lieu of subsecs. "(2)" and "(3)" of the original Act, which read as follows:

"(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets.

"(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the prewar period, August 1909–July 1914."

#### PART I.—COTTON OPTION CONTRACTS

SEC. 3. The Federal Farm Board and all departments and other agencies of the Government, not including the Federal intermediate credit banks, are hereby directed—

(a) To sell to the Secretary of Agriculture at such price as may be agreed upon, not in excess of the market price, all cotton now owned by them.

(b) To take such action and to make such settlements as are necessary in order to acquire full legal title to all cotton on which money has been loaned or advanced by any department or agency of the United States, including futures contracts for cotton or which is held as collateral for loans or advances and to make final settlement of such loans and advances as follows:

(1) In making such settlements with regard to cotton, including operations to which such cotton is related, such cotton shall be taken over by all such departments or agencies other than the Secretary of Agriculture at a price or sum equal to the amounts directly or indirectly loaned or advanced thereon and outstanding, including loans by the Government department or agency and any loans senior



thereto, plus any sums required to adjust advances to growers to 90 per centum of the value of their cotton at the date of its delivery in the first instance as collateral to the department or agency involved, such sums to be computed by subtracting the total amount already advanced to growers on account of pools of which such cotton was a part, from 90 per centum of the value of the cotton to be taken over as of the time of such delivery as collateral, plus unpaid accrued carrying charges and operating costs on such cotton, less, however, any existing assets of the borrower derived from net income, earnings, or profits arising from such cotton, and from operations to which such cotton is related; all as determined by the department or agency making the settlement.

(2) The Secretary of Agriculture shall make settlements with respect to cotton held as collateral for loans or advances made by him on such terms as in his judgment may be deemed advisable, and to carry out the provisions of this section, is authorized to indemnify or furnish bonds to warehousemen for lost warehouse receipts and to pay the premiums on such bonds.

When full legal title to the cotton referred to in (b) has been acquired, it shall be sold to the Secretary of Agriculture for the purposes of this section, in the same manner as provided in (a).

(c) The Secretary of Agriculture is hereby authorized to purchase the cotton specified in paragraphs (a) and (b).

SEC. 4. (a) The Secretary of Agriculture shall have authority to borrow money upon all cotton in his possession or control and *may, at his discretion*, deposit as collateral for such loans the warehouse receipts for such cotton.

The italicized matter was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934.

(b) *The Secretary of the Treasury is authorized to advance, in his discretion, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000,<sup>3</sup> to the Secretary of Agriculture, for paying off any debt or debts which may have been or may be incurred by the Secretary of Agriculture and discharging any lien or liens which may have arisen or may arise pursuant to part 1 of this title, for protecting title to any cotton which may have been or may be acquired by the Secretary of Agriculture under authority of part 1 of this title, and for paying any expenses (including, but not limited to, warehouse charges, insurance, salaries, interest, costs, and commissions) incident to carrying, handling, insuring, and marketing of said cotton and for the purposes described in subsection (e) of this section. This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of Title 1 of this Act, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture.*

The italicized matter was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934. The matter in black face type was added by sec. 35 of Public No. 320, 74th Congress, approved August 24, 1935.

<sup>3</sup> Deletion: "to be available, until March 1, 1936" stricken by sec. 35 of Public No. 320, 74th Congress, approved August 24, 1935.

*(c) The funds authorized by subsection (b) of this section shall be made available to the Secretary of Agriculture from time to time upon his request and with the approval of the Secretary of the Treasury. Each such request shall be accompanied by a statement showing by weight and average grade and staple the quantity of cotton held by the Secretary of Agriculture and the approximate aggregate market value thereof.*

Subsec. "(c)" was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934.

*(d) It is the purpose of subsections (b) and (c) to provide an alternative method to that provided by subsection (a), for enabling the Secretary of Agriculture to finance the acquisition, carrying, handling, insuring, and marketing of cotton acquired by him under authority of section 3 of this Act. The Secretary of Agriculture may at his discretion make use of either or both of the methods provided in this section for obtaining funds for the purposes hereinabove enumerated.*

Subsec. "(d)" was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934.

*(e) The Secretary of Agriculture is authorized to use in his discretion any funds obtained by him pursuant to the provisions of subsection (a) or (b) of this section or of section 5 for making advances to any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture, to enable any such agency to perform, exercise, and discharge any of the duties, privileges, and functions which such agency may be authorized to perform, exercise, or discharge.*

Subsec. "(e)" was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934.

*(f) The proceeds derived from the sale of cotton shall be held for the Secretary of Agriculture by the Treasurer of the United States in a special deposit account and shall be used by the Secretary of Agriculture to discharge the obligations incurred under authority of part 1 of this title. Whenever any cotton shall be marketed the net proceeds (after discharge of other obligations incurred with respect thereto) derived from the sale thereof shall be used, to the extent required, to reimburse the Treasury for such portion of the funds hereby provided for as shall have been used, which shall be covered into the Treasury as a miscellaneous receipt. If when all of the cotton acquired by the Secretary of Agriculture shall have been marketed and all of the obligations incurred with respect to such cotton shall have been discharged, and the Treasury reimbursed for any and all sums which may have been advanced pursuant to subsection (b), there shall remain any balance in the hands of the Secretary of Agriculture, such balance shall be covered into the Treasury as miscellaneous receipts.*

The word "obligation" when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing of said cotton.

The italicized matter was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934. The matter in black face type was added by sec. 36 of Public No. 320, 74th Congress, approved August 24, 1935.

SEC. 5. The Reconstruction Finance Corporation is hereby authorized and directed to advance money and to make loans to the Secretary of Agriculture *for the purpose of providing funds with which to enable the Secretary of Agriculture to perform the duties and functions which he is directed or authorized to perform under the provisions of part 1 of this title, provided such advance of money or such loans shall not be for amounts in excess of the market value of the cotton, or the interest of the Secretary of Agriculture in the cotton, against which the advance or loan is to be made at the time such advance or loan may be applied for by the Secretary of Agriculture, plus costs, expenses, and commissions incurred incidental to handling, carrying, and marketing of such cotton.* The Secretary of Agriculture shall not be required to pledge or deposit warehouse receipts or other evidences of title to cotton as security for any advance of money or loans made pursuant hereto, but it shall be sufficient if the Secretary shall give to the Reconstruction Finance Corporation a written statement showing the quantity of cotton by weight and the average grade and staple of the cotton against which the advance or loan is to be made. The amount of notes, bonds, debentures, and other obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions of this section.

The italicized matter was added by Title II of the Emergency Appropriation Act, Fiscal Year 1935, Public No. 412, 73d Congress, approved June 19, 1934. The matter deleted by said Title II of the Emergency Appropriation Act is shown within heavy brackets in the following comparative print:

SEC. 5. The Reconstruction Finance Corporation is hereby authorized and directed to advance money and to make loans to the Secretary of Agriculture [to acquire such cotton and to pay the classing, carrying, and merchandising costs thereon, in such amounts and upon such terms as may be agreed upon by the Secretary and the Reconstruction Finance Corporation, with such warehouse receipts as collateral security:] *for the purpose of providing funds with which to enable the Secretary of Agriculture to perform the duties and functions which he is directed or authorized to perform under the provisions of part 1 of this title, provided such advance of money or such loans shall not be for amounts in excess of the market value of the cotton, or the interest of the Secretary of Agriculture in the cotton, against which the advance or loan is to be made at the time such advance or loan may be applied for by the Secretary of Agriculture, plus costs, expenses, and commissions incurred incidental to handling, carrying, and marketing of such cotton.* [Provided, however, That in any instance where it is impossible or impractical for the Secretary to deliver such warehouse receipts as collateral security for the advances and loans herein provided to be made, the Reconstruction Finance Corporation may accept in lieu of all or any part thereof such other security as it may consider acceptable for the purposes aforesaid, including an assignment or assignments of the equity and interest of the Secretary in warehouse receipts pledged to secure other indebtedness.] *The Secretary of Agriculture shall not be required to pledge or deposit warehouse receipts or other evidences of title to cotton as security for any advance of money or loans made pursuant hereto, but it shall be sufficient if the Secretary shall give to the Reconstruction Finance Corporation a written statement showing the quantity of cotton by weight and the average grade and*



## SEC. 7.] COMPILATION AGRICULTURAL ADJUSTMENT ACT

*staple of the cotton against which the advance or loan is to be made.* The amount of notes, bonds, debentures, and other [such] obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions of this section.

"Sec. 6" was repealed by sec. 34 of Public No. 320, 74th Congress, approved August 24, 1935. It read as follows:

"SEC. 6. (a) The Secretary of Agriculture is hereby authorized to enter into option contracts with the producers of cotton to sell to any such producer an amount of cotton to be agreed upon not in excess of the amount of reduction in production of cotton by such producer below the amount produced by him in the preceding crop year, in all cases where such producer agrees in writing to reduce the amount of cotton produced by him in 1933, below his production in the previous year, by not less than 30 per centum, without increase in commercial fertilization per acre.

"(b) To any such producer so agreeing to reduce production the Secretary of Agriculture shall deliver a nontransferable-option contract agreeing to sell to said producer an amount, equivalent to the amount of his agreed reduction, of the cotton in the possession and control of the Secretary.

"(c) The producer is to have the option to buy said cotton at the average price paid by the Secretary for the cotton procured under section 3, and is to have the right at any time up to January 1, 1934, to exercise his option, upon proof that he has complied with his contract and with all the rules and regulations of the Secretary of Agriculture with respect thereto, by taking said cotton upon payment by him of his option price and all actual carrying charges on such cotton; or the Secretary may sell such cotton for the account of such producer, paying him the excess of the market price at the date of sale over the average price above referred to after deducting all actual and necessary carrying charges: *Provided*, That in no event shall the producer be held responsible or liable for financial loss incurred in the holding of such cotton or on account of the carrying charges therein: *Provided further*, That such agreement to curtail cotton production shall contain a further provision that such cotton producer shall not use the land taken out of cotton production for the production for sale, directly or indirectly, of any other nationally produced agricultural commodity or product.

"(d) If any cotton held by the Secretary of Agriculture is not disposed of under subsection (c), the Secretary is authorized to enter into similar option contracts with respect to such cotton, conditioned upon a like reduction of production in 1934, and permitting the producer in each case to exercise his option at any time up to January 1, 1935."

**SEC. 7.** The Secretary shall sell cotton held or acquired by him pursuant to authority of this Act at his discretion **subject only to the conditions and limitations of Title 1 of this Act: Provided, That** the Secretary shall have authority to enter into option contracts *with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.*

Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

*Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such Act.*

The italicized matter was added by sec. 221 of the National Industrial Recovery Act, Public No. 67, 73d Congress, approved June 16, 1933. The matter in black face type was added by sec. 33 of Public No. 320, 74th Congress, approved August 24, 1935. A comparative print of the first and last paragraphs of "sec. 7" is as follows, the light brackets surrounding the matter deleted by sec. 221 of the National Industrial Recovery Act and the heavy brackets surrounding the matter stricken by said sec. 33 of Public No. 320:

Sec. 7. The Secretary shall sell [the] cotton held or acquired by him pursuant to authority of this Act at his discretion [ , but subject to the foregoing provisions: *Provided*, that he shall dispose of all cotton held by him by March 1, 1936: *Provided further*, That notwithstanding the provisions of Section 6,] subject only to the conditions and limitations of Title I of this Act: *Provided*, That the Secretary shall have authority to enter into [additional] option contracts [for so much of such cotton as is not necessary to comply with the provisions of section 6,] with producers of cotton to sell to or for the producers such cotton held and/or acquired by him[,] in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, [in combination with rental or benefit payments [as] provided for in Part 2 of this title.] and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

*Notwithstanding any provision[s] of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such Act.*

## PART 2—COMMODITY BENEFITS

### GENERAL POWERS

SEC. 8.<sup>4</sup> (1) Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

<sup>4</sup> Sec. 3741 of the Revised Statutes of the United States and secs. 114 and 115 of the Criminal Code of the United States are made inapplicable to contracts made by Congressmen under the Agricultural Adjustment Act by Public No. 86, 73d Congress, as amended by National Housing Act, Public No. 479, 73d Congress, see p. 132.



SEC. 8.] COMPILATION AGRICULTURAL ADJUSTMENT ACT

The matter in black face type was added by sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935. The first part of "sec. 8(1)" originally read as follows:

"In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

"(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments."

The latter part of said "sec. 8(1)" has been incorporated in subsecs. "(7)", "(8)", and "(9)" of "sec. (8)" see pp. 9, 10. For saving legislation, see sec. 38 of said Public No. 320, p. 111.

(2) <sup>5</sup> Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and

(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

Added by sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935.

(3) <sup>6</sup> Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

Added by sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935.

<sup>5</sup> "Sec. 8 (2)" as it appeared in the original Act was changed by sec. 4 of Public No. 320, 74th Congress, approved August 24, 1935 to "sec. 8 (b)." See p. 15.

<sup>6</sup> "Sec. 8 (3)" of the original Act was stricken by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935. For text of said section, see note to "sec. 8b", on p. 16.

(4)<sup>7</sup> Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

Added by sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935.

(5)<sup>8</sup> In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

Added by sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935.

(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

Added by sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935.

(7) *In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or*

<sup>7</sup> "Sec. 8 (4)" of the original Act was stricken by sec. 6 of Public No. 320, 74th Congress, approved August 24, 1935. For text of said section, see note to "sec. 8d", p. 26.

<sup>8</sup> "Sec. 8 (5)" of the original Act was renumbered to read "Sec. 8f", see p. 26.



*benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.*

This provision was originally enacted by sec. 14 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934, as a part of subsec. "(1)" of "sec. 8." Sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935, struck out subsec. "(1)" of "sec. 8" and reenacted this provision as a separate subdivision, "sec. 8 (7)", and amended same by adding the matter in black face type and deleting the matter surrounded by heavy brackets in the following comparative print:

**[and, in.]** In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, **[to] the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.**

**(8)** *In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this title, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.*

This provision was originally enacted by sec. 7 of Public No. 20, 74th Congress, approved March 18, 1935, as a part of subsec. "(1)" of "sec. 8." Sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935, struck out subsec. "(1)" of "sec. (8)" and reenacted this provision as a separate subdivision, "sec. 8 (8)," and amended same by adding the matter in black face type and deleting the matter surrounded by heavy brackets in the following comparative print:

**In the case of rice, the Secretary [.] of Agriculture, in exercising the [discretion] power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to [this section] such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of [the Act] this title, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.**

**(9)** Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing



thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.

Subsec. "(9)" was originally the last two sentences of "sec. 8 (1)." Sec. 2 of Public No. 320, 74th Congress, approved August 24, 1935, struck out subsec. "(1)" of "sec. 8" and reenacted this provision as a separate subdivision, "sec. 8 (9)." The only change in the text made by said Public No. 320 was the deletion of a comma in the last sentence after the word "sealing".

*SEC. 8a. (1) Having due regard to the welfare of domestic producers and to the protection of domestic consumers and to a just relation between the prices received by domestic producers and the prices paid by domestic consumers, the Secretary of Agriculture may, in order to effectuate the declared policy of this Act, from time to time, by orders or regulations—*

*(A) (i) Forbid processors, persons engaged in the handling of sugar, and others from importing sugar into continental United States for consumption, or which shall be consumed, therein, and/or from transporting to, receiving in, processing or marketing in, continental United States, and/or from processing in any area to which the provisions of this title with respect to sugar beets and sugarcane may be made applicable, for consumption in continental United States, sugar from the Virgin Islands, the Philippine Islands, the Canal Zone, American Samoa, the island of Guam, and from foreign countries, including Cuba, respectively, in excess of quotas fixed by the Secretary of Agriculture, for any calendar year, based on average quantities therefrom brought into or imported into continental United States for consumption, or which was actually consumed, therein, during such three years, respectively, in the years 1925-1933, inclusive, as the Secretary of Agriculture may, from time to time, determine to be the most representative respective three years, adjusted, together with the quotas established pursuant to paragraph (ii), (in such manner as the Secretary shall determine) to the remainder of the total estimated consumption requirements of sugar for continental United States, determined pursuant to subsection (2) of this section, after deducting therefrom the quotas for continental United States, provided for by paragraph (B) of this subsection: Provided, however, That in such quotas there may be included, in the case of the Virgin Islands, the Philippine Islands, the Canal Zone, American Samoa, and the island of Guam, direct-consumption sugar up to an amount not exceeding the respective quantities of direct-consumption sugar therefrom brought into or imported into continental United States for consumption, or which was actually consumed, therein during the year 1931, 1932, or 1933, whichever is greater, and in the case of Cuba, direct-consumption sugar up to an amount not exceeding 22 per centum of the quota established for Cuba: And provided further, That any imported sugar, with respect to which a drawback of duty is allowed, under the provisions of section 313 of the Tariff Act of 1930,<sup>9</sup> shall not be charged against the quota established by the Secretary of Agriculture hereunder for the country from which such sugar was imported, and the Secretary of Agriculture may, by orders or regulations,*

<sup>9</sup> For text of sec. 313, Tariff Act of 1930, see p. 133.

*readjust any quota subject to the provisions of this section, except quotas fixed by paragraph (B) of this subsection; and may allot (or appoint an officer, including the Governor General of the Philippine Islands for that area, in his name to allot) any quota, and readjust any such allotment, from time to time, among the processors, persons engaged in the handling of sugar and others; and/or*

The italicized matter was added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The phrases, "persons engaged in the handling", in black face type were added by sec. 8 (a) of Public No. 320, 74th Congress, approved August 24, 1935, and the word "handlers" was stricken in each such case.

(ii) *Forbid processors, persons engaged in the handling of sugar, and others from transporting to, receiving in, processing or marketing in, continental United States, and/or from processing in the Territory of Hawaii or Puerto Rico for consumption in continental United States, sugar from the Territory of Hawaii or Puerto Rico, in excess of quotas fixed by the Secretary of Agriculture, for any calendar year, based on average quantities therefrom brought into continental United States for consumption, or which was actually consumed, therein during such three years, respectively, in the years 1925-1933, inclusive, as the Secretary of Agriculture may, from time to time, determine to be the most representative respective three years, adjusted, together with the quotas established pursuant to paragraph (i), (in such manner as the Secretary shall determine) to the remainder of the total estimated consumption requirements of sugar for continental United States, determined pursuant to subsection (2) of this section, after deducting therefrom the quotas for continental United States, provided for by paragraph (B) of this subsection: Provided, however, That in such quotas there may be included direct-consumption sugar up to an amount not exceeding the respective quantities of direct-consumption sugar therefrom brought into continental United States for consumption, or which was actually consumed, therein during the year 1931, 1932, or 1933, whichever is greater, and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, persons engaged in the handling of sugar, and others; and/or*

The italicized matter was added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The phrases, "persons engaged in the handling", in black face type were added by sec. 8 (a) of Public No. 320, 74th Congress, approved August 24, 1935, and the word "handlers" was stricken in each such case.

(B) *Forbid processors, persons engaged in the handling of sugar, and others from marketing in, or in the current of, or so as directly to burden, obstruct, or affect, interstate or foreign commerce, sugar manufactured from sugar beets and/or sugarcane, produced in the continental United States beet-sugar-producing area, the States of Louisiana and Florida, and any other State or States in excess of the following quotas, for any calendar year, except as provided for in subsection (2) of this section: United States beet-sugar area, one million five hundred and fifty thousand short tons raw value; the States of Louisiana and Florida, except as may be provided under paragraph (C) of this subsection, two hundred and sixty thousand short tons raw value; and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such*



*allotment, from time to time, among the processors, persons engaged in the handling of sugar, and others; and/or*

The italicized matter was added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934, and the matter in black face type was added by sec. 8 of Public No. 320, 74th Congress, approved August 24, 1935. The matter deleted by said sec. 8 of Public No. 320 is shown within heavy brackets in the following comparative print.

(B) *Forbid processors, [handlers] persons engaged in the handling of sugar, and others from marketing in, or in the current of [or in competition with,] or so as directly to burden, obstruct, or [in any way] affect, interstate or foreign commerce, sugar manufactured from sugar beets and/or sugarcane, produced in the continental United States beet-sugar-producing area, the States of Louisiana and Florida, and any other State or States in excess of the following quotas, for any calendar year, except as provided for in subsection (2) of this section: United States beet-sugar area, one million five hundred and fifty thousand short tons raw value; the States of Louisiana and Florida, except as may be provided under paragraph (C) of this subsection, two hundred and sixty thousand short tons raw value; and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, [handlers] persons engaged in the handling of sugar, and others; and/or*

(C) *For any calendar year, determine the quota, but not less than the quota provided in paragraph (B), for any area producing less than two hundred and fifty thousand long tons of sugar raw value during the next preceding calendar year; and/or*

(D) *Establish a separate quota or quotas for edible molasses and/or sirup of cane juice produced in continental United States, in addition to, and/or for edible molasses, sirups, and sugar mixtures produced in any other area or areas to which this title relates, as part of or in addition to, the quotas established pursuant to paragraphs (A) and (C), inclusive, of this subsection, for use as such and not for the extraction of sugar.*

Added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

(2) (A) *The consumption requirements of sugar for continental United States, for the calendar year 1934, and for each succeeding calendar year, shall be determined by the Secretary of Agriculture from available statistics of the Department of Agriculture. The consumption requirements so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy and the purposes of this Act, be adjusted by him to meet the actual requirements of the consumer as determined by the Secretary.*

(B) *In the event that available statistics of the Department of Agriculture during the course of any calendar year indicate that the consumption requirements of sugar for continental United States for such calendar year will exceed the amount of the consumption requirements determined for that year, the Secretary of Agriculture may prorate such estimated excess amount on the basis of the respective quotas determined by and pursuant to subsection (1) of this section. Provided, however, That for each calendar year there shall be allotted to continental United States not less than 30 per centum of any amount of consumption requirements therefor above six million four hundred and fifty-two thousand short tons raw value.*

(C) *In the event that available statistics of the Department of Agriculture during the course of any calendar year indicate that the consump-*

*tion requirements of sugar for continental United States for such year will be less than the amount of the consumption requirements determined for that year, the amount of such deficiency may be proportionately deducted from the respective quotas determined by and pursuant to paragraph (A) of subsection (1) of this section.*

*(D) If, during any calendar year, any producing area is unable to produce and deliver its full quota of sugar, the Secretary of Agriculture may prorate this deficiency among the other areas on the basis of their respective quotas and ability to supply the deficiency.*

*(E) Notwithstanding the provisions of paragraphs (A) to (C), inclusive, of subsection (1) of this section, the Secretary of Agriculture may, in order to effectuate the declared policy of this Act, from time to time, by orders or regulations, deduct from the quotas for production, importing, receiving, and/or marketing, and/or from the allotments thereof, established pursuant to said paragraphs, in any given year, an amount for each year, respectively, representing the surplus stocks of sugar produced in that area, or a portion of the total surplus stocks of sugar produced in that area, in whole or in part, which may have accumulated in the year next preceding, over and above the quotas established for such year.*

Added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

*(3) In order more fully to effectuate the declared policy of this Act, as set forth in its declaration of policy, and to insure the equitable division between producers and/or growers and/or the processors of sugar beets or sugarcane of any of the proceeds which may be derived from the growing, processing and/or marketing of such sugar beets or sugarcane, and the processing and/or marketing of the products and byproducts thereof, all agreements authorized by this Act relating to sugar beets, sugarcane, or the products thereof may contain provisions which will limit or regulate child labor, and will fix minimum wages for workers or growers employed by the producers and/or processors of sugar beets and/or sugarcane who are parties to such agreements; and the Secretary, upon the request of any producer, or grower, or worker, or of any association of producers, or growers, or workers, or of any processor, of sugar beets or sugarcane, is hereby authorized to adjudicate any dispute as to any of the terms under which sugar beets or sugarcane are grown or are to be grown and/or marketed, and the sugar and byproducts thereof are to be marketed. The decision and any determination of the Secretary shall be final.*

*(4) Any person willfully violating any order or regulation of the Secretary of Agriculture issued under this section shall, upon conviction, be punished by a fine of not more than \$100.*

*(5) Any person willfully exceeding any quota or allotment fixed for him under this title by the Secretary of Agriculture, and any other person knowingly participating, or aiding, in the exceeding of said quota or allotment, shall forfeit to the United States a sum equal to three times the current market value of such excess, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.*

Added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

(6) *The several district courts of the United States are hereby vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this section, or of any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to this title, in any proceeding now pending or hereafter brought in said courts.*

The italicized matter was added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The word "or" in black face type was added by sec. 9 of Public No. 320, 74th Congress, approved August 24, 1935. Said sec. 9 of Public No. 320 also struck out the words "or license" immediately following the word "agreement".

(7) *Upon the request of the Secretary of Agriculture, it shall be the duty of the several district attorneys of the United States, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to, this title. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.*

The italicized matter was added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The last sentence, in black face type, was added by sec. 10 of Public No. 320, 74th Congress, approved August 24, 1935.

(8) *The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this title or now or hereafter existing at law or in equity.*

(9) *The term "person" as used in this title includes an individual, partnership, corporation, association, and any other business unit.*

Added by sec. 4 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

**Sec. 8b.** *In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act.<sup>10</sup>*

<sup>10</sup> For text of sec. 5 of the Reconstruction Finance Corporation Act, as amended, see p. 135.



Such loans shall not be in excess of such amounts as may be authorized by the agreements.

The italicized matter was added by sec. 7 of the Jones-Connally Cattle Act, Public No. 142, 73d Congress, approved April 7, 1934. The matter in black face type was added by sec. 4 of Public No. 320, 74th Congress, approved August 24, 1935. A comparative print of the first sentence of this section is as follows, the light brackets surrounding the matter deleted by said sec. 7 of the Jones-Connally Cattle Act, heavy brackets surrounding the matter stricken by said sec. 4 of Public No. 320:

**[(2)] Sec. 8b. In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to [To] enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling [, in the current of interstate or foreign commerce] of any agricultural commodity or product thereof, [after due notice and opportunity for hearing to interested parties.] only with respect to such handling as is in the current of [or in competition with,] interstate or foreign commerce [or so as to burden, obstruct, or in any way affect,] or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.**

In the original Act "sec. 8b" was subsec. "(2)" of "sec. 8." Subsection "(3)" of "sec. 8," which immediately followed "sec. 8 (2)" in the original Act was stricken by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935. It read as follows:

"(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof. The Secretary of Agriculture may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the Secretary suspending or revoking any such license shall be final if in accordance with law. Any such person engaged in such handling without a license as required by the Secretary under this section shall be subject to a fine of not more than \$1,000 for each day during which the violation continues."

For saving legislation, see sec. 38 of said Public No. 320, p. 111.

## ORDERS

**Sec. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.**

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

### COMMODITIES TO WHICH APPLICABLE

**(2) Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products**

thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soybeans and naval stores as included in the Naval Stores Act<sup>11</sup> and standards established thereunder (including refined or partially refined oleoresin).

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### NOTICE AND HEARING

(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

\* Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### FINDING AND ISSUANCE OF ORDER

(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### TERMS—MILK AND ITS PRODUCTS

(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: Provided, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agricul-

<sup>11</sup> For definition of "Naval Stores", as included in the "Naval Stores Act", see p. 140.



ture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5).

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act",<sup>12</sup> engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: Provided, That it shall not sell

<sup>12</sup> "Capper-Volstead Act", 42 Stat. 388; 7 U. S. C. §§291-2.



milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection (5) for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

TERMS—OTHER COMMODITIES

(6) In the case of fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning) and their products, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning) and their products, soybeans and their products, and naval stores as included in the Naval Stores Act<sup>13</sup> and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or

<sup>13</sup> For definition of "Naval Stores", as included in the "Naval Stores Act", see p. 140.

foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing, or providing for the establishment of, reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### TERMS COMMON TO ALL ORDERS

(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (C) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### ORDERS WITH MARKETING AGREEMENT

(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not



engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### ORDERS WITH OR WITHOUT MARKETING AGREEMENT

(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof



covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### MANNER OF REGULATION AND APPLICABILITY

(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### REGIONAL APPLICATION

(11) (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest

regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### COOPERATIVE ASSOCIATION REPRESENTATION

(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### RETAILER AND PRODUCER EXEMPTION

(13) (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### VIOLATION OF ORDER

(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: Provided, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.



## PETITION BY HANDLER AND REVIEW

(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

## TERMINATION OF ORDERS AND MARKETING AGREEMENTS

(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: Provided, That such majority



have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### PROVISIONS APPLICABLE TO AMENDMENTS

(17) The provisions of this section, section 8d, and section 8c applicable to orders shall be applicable to amendments to orders: Provided, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8c, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.

Added by sec. 5 of Public No. 320, 74th Congress, approved August 24, 1935.

#### BOOKS AND RECORDS

Sec. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of

Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

Added by sec. 6 of Public No. 320, 74th Congress, approved August 24, 1935. The section in the original Act re the furnishing of reports was "sec. 8 (4)", which was repealed by said sec. 6 of Public No. 320. It read as follows:

"(4) To require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such systems of accounts, as may be necessary for the purpose of part 2 of this title."

#### DETERMINATION OF BASE PERIOD

**Sec. 8e.** In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919-July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.

"Sec. 8e" was added by sec. 6 of Public, No. 320, 74th Congress, approved August 24, 1935.

**Sec. 8f.** No person engaged in the storage in a public warehouse of any basic agricultural commodity in the current of interstate or foreign commerce, shall deliver any such commodity upon which a warehouse receipt has been issued and is outstanding, without prior surrender and cancellation of such warehouse receipt. Any person violating any of the provisions of this subsection shall, upon conviction, be punished by a fine of not more than \$5,000, or by imprisonment for not more than two years, or both.

This section was subsec. "(5)" of "sec. 8" of the original Act. Sec. 7 of Public No. 320, 74th Congress, approved August 24, 1935, renumbered the section and struck out the last sentence thereof. It read as follows:

"The Secretary of Agriculture may revoke any license issued under subsection (3) of this section, if he finds, after due notice and opportunity for hearing, that the licensee has violated the provisions of this subsection."



PROCESSING TAX

SEC. 9. (a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that **any one or more payments authorized to be made under section 8** are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation; *except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after the adoption of this amendment, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after the date of the adoption of this amendment, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year.* The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that **all payments authorized under section 8 which are in effect** are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided, That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932<sup>14</sup> and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.*

The italicized matter was added by sec. 9 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The matter in black face type was added by sec. 1 and 2 of Public No. 20, 74th Congress, approved March 18, 1935, with the exception of the phrase "any one or more payments authorized to be made under Section 8", appearing in the first sentence, and the phrase "all payments authorized under section 8 which are in effect", appearing in the eighth sentence. These phrases were added in lieu of "rental or benefit payments", which was stricken in each case, by sec. 11 of Public No. 320, 74th Congress, approved August 24, 1935.

<sup>14</sup> Revenue Act of 1932, 47 Stat. 259, 48 Stat. 255; 26 U. S. C. §1481 note.



## TAX RATE GENERALLY

(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, **plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax.** If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, *on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses,* will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then **the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally, or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses,** shall be at such lower rate or rates as **he determines and proclaims** will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

The italicized matter was added by sec. 3 (a) of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The matter in black face type was added by sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935.

In the original Act, the above "sec. 9 (b) (1)" was substantially the first half of "sec. 9 (b)". The latter half has been reenacted as part of sections "9 (b) (3)", "9 (b) (8)", and "9 (b) (9)", see pp. 30, 32, 33.

The above section has been amended three times: first, by said sec. 3 (a) of the Jones-Costigan Sugar Act, second by secs. 3 and 4 of Public

No. 20, 74th Congress, approved March 18, 1935, and third, by sec. 12 of Public No. 320. The following comparative print sets forth:

1. The original Act in roman type.
2. Amendments by Jones-Costigan Sugar Act in italics.
3. Amendments by Public No. 20 in small caps.
4. Amendments by Public No. 320 in black face type.
5. Deletions by Public No. 20 by light brackets.
6. Deletions by Public No. 320 by heavy brackets.

(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity [; except that (1) if], **plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any [particular] designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then [he] the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. [( If], AND IF] If thereupon the Secretary [finds] determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, [or as to] or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity [, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.**

#### SPECIFIC TAX RATES

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

Added by sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935.



SPECIFIC TAX RATE—RICE

(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

This paragraph was originally enacted by sec. 3 of Public No. 20, 74th Congress, approved March 18, 1935, as a part of subsec. "(b)" of "sec. 9." Sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935, reenacted the provision as above set forth. The following comparative print sets out the additions made by said sec. 12 of Public No. 320 in black face type and the deletions in heavy brackets:

**[and (2) for] For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice. [**subject, however, to any modification of such rate which may be made pursuant to any other provision of this title.**]**

SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

Added by sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935.

SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley.

Added by sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935.

ADJUSTMENT OF RATE

(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).



(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however, to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this

paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

Added by sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935.

#### RICE—SPECIAL RULE

(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

This provision was originally enacted by sec. 4 of Public No. 20, 74th Congress, approved March 18, 1935, as a part of subsec. "(b)" of sec. 9. Sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935, reenacted the provision as above set forth, adding the title "RICE—SPECIAL RULE" and the comma after "except that".

#### SUGAR—SPECIAL RULE

(8) *In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under para-*



*graph 501 of the Tariff Act of 1930,<sup>15</sup> as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902,<sup>16</sup> and/or the provisions of the Act of December 17, 1903, chapter 1.<sup>17</sup>*

This provision was originally enacted by sec. 3 (b) of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934, as part of subsec. "(b)" of "sec. 9." Sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935 reenacted the provision, as above set forth, making the additions set out in black face type. The deletions made are set forth in the following comparative print within heavy brackets:

*In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value [(1)] (A) of a ton of sugar beets and [(2)] (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); [except that such] the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall [not] in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.*

#### WHEAT PREMIUMS

(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

This provision was originally part of subsec. (b) of sec. 9. Sec. 12 of Public No. 320, 74th Congress, approved August 24, 1935, reenacted same as a separate subdivision, and added the title "WHEAT PREMIUMS."

(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary

<sup>15</sup> For text of Par. 501 of the Tariff Act of 1930, see p. 134.

<sup>16</sup> Treaty between the United States and Cuba on December 11, 1902, 58 Stat. 2136.

<sup>17</sup> Act of December 17, 1903, 33 Stat. 3, 4, 38 Stat. 192; 19 U. S. C. §§124-5.



of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title.

The matter in black face type was added by sec. 13 of Public No. 320, 74th Congress, approved August 24, 1935.

(d) As used in part 2 of this title—

(1) In case of wheat, rye, barley, and corn, the term "processing" means the milling or other processing (except cleaning and drying) of wheat, rye, barley, or corn for market, including custom milling for toll as well as commercial milling, but shall not include the grinding or cracking thereof not in the form of flour for feed purposes only.

The words "rye, barley," were inserted by sec. 14 (a) of Public No. 320, 74th Congress, approved August 24, 1935. The word "rice" (and the commas which precede and follow) immediately following the word "wheat" in both instances was stricken by sec. 5 of Public No. 20, 74th Congress, approved March 18, 1935.

(2) In case of cotton, the term "processing" means the spinning, manufacturing, or other processing (except ginning) of cotton; and the term "cotton" shall not include cotton linters.

(3) In case of tobacco, the term "processing" means the manufacturing or other processing (except drying or converting into insecticides and fertilizers) of tobacco.

Paragraph "(4)" was repealed by sec. 2 (a) of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934. It read as follows:

"(4) In case of hogs, the term 'processing' means the slaughter of hogs for market."

Paragraph "(5)" was added by sec. 3 (a) of the Jones-Connally Cattle Act, Public No. 142, 73d Congress, approved April 7, 1934, and was repealed by sec. 14 (b) of Public No. 320, 74th Congress, approved August 24, 1935. It read as follows:

"(5) In case of peanuts, the term 'processing' means the cleaning, polishing, grading, shelling, crushing, or other processing thereof."

(6) *In the case of sugar beets and sugarcane—*

(A) *The term "first domestic processing" means each domestic processing, including each processing of successive domestic processings, of sugar beets, sugarcane, or raw sugar, which directly results in direct-consumption sugar.*

(B) *The term "sugar" means sugar in any form whatsoever, derived from sugar beets or sugarcane, whether raw sugar or direct-consumption sugar, including also edible molasses, sirups and any mixture containing sugar (except blackstrap molasses and beet molasses).*

(C) *The term "blackstrap molasses" means the commercially so-designated "byproduct" of the cane-sugar industry, not used for human consumption or for the extraction of sugar.*

(D) *The term "beet molasses" means the commercially so-designated "byproduct" of the beet-sugar industry, not used for human consumption or for the extraction of sugar.*

(E) *The term "raw sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States, in any form whatsoever, for the purpose of being, or which shall be, further refined (or improved in quality, or further prepared for distribution or use).*

(F) *The term "direct-consumption sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States in*

any form whatsoever, for any purpose other than to be further refined (or improved in quality, or further prepared for distribution or use).

(G) The term "raw value" means a standard unit of sugar testing ninety-six sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of "raw value" and for purposes of quota and tax measurements all sugar shall be translated into terms of "raw value" according to regulations to be issued by the Secretary, except that in the case of direct-consumption sugar produced in continental United States from sugar beets the raw value of such sugar shall be one and seven one-hundredths times the weight thereof.

Paragraph "(6)" was added by sec. 2 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

(7) In the case of rice—

(A) The term "rough rice" means rice in that condition which is usual and customary when delivered by the producer to a processor.

(B) The term "processing" means the cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the term "processing" means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

(C) The term "cooperating producer" means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

(D) The term "processor", as used in subsection (b-1) of section 15 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).

Paragraph "(7)" was added by sec. 6 of Public No. 20, 74th Congress, approved March 18, 1935.

(8) In the case of any other commodity, the term "processing" means any manufacturing or other processing involving a change in the form of the commodity or its preparation for *distribution or use*, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.

This paragraph was numbered "(5)" in the original Act. It was changed to number "(6)" by sec. 3 (a) of the Jones-Connally Cattle Act, Public No. 142, 73d Congress, approved April 7, 1934, and to number "(7)" by sec. 5 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934, and to its present number, "(8)", by sec. 6 of Public No. 20, 74th Congress, approved March 18, 1935.

The italicized words "distribution or use" were added by sec. 2 (b) of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934, and the word "market", formerly in their place, was stricken.

(e) When any processing tax, or increase or decrease therein, takes effect in respect of a commodity the Secretary of Agriculture, in



order to prevent pyramiding of the processing tax and profiteering in the sale of the products derived from the commodity, shall make public such information as he deems necessary regarding (1) the relationship between the processing tax and the price paid to producers of the commodity, (2) the effect of the processing tax upon prices to consumers of products of the commodity, (3) the relationship, in previous periods, between prices paid to the producers of the commodity and prices to consumers of the products thereof, and (4) the situation in foreign countries relating to prices paid to producers of the commodity and prices to consumers of the products thereof.

(f) *For the purposes of part 2 of this title, processing shall be held to include manufacturing.*

Subsec. "(f)" was added by sec. 6 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

**(g) Nothing contained in this title shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint.**

Subsec. "(g)" was added by sec. 15 of Public No. 320, 74th Congress, approved August 24, 1935.

#### MISCELLANEOUS

SEC. 10. (a) The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of the Classification Act of 1923<sup>18</sup> and Acts amendatory thereof,<sup>19</sup> and such experts as are necessary to execute the functions vested in him by this title; and the Secretary may make such appointments without regard to the civil service laws or regulations: *Provided*, That no salary in excess of \$10,000 per annum shall be paid to any officer, employee, or expert of the Agricultural Adjustment Administration, which the Secretary shall establish in the Department of Agriculture for the administration of the functions vested in him by this title: *And provided further*, *That the State Administrator appointed to administer this Act in each State shall be appointed by the President, by and with the advice and consent of the Senate.* Title II of the Act entitled "An Act to maintain the credit of the United States Government",<sup>20</sup> approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensation, shall not operate to require such impoundment under appropriations contained in this Act.

As amended by sec. 86 of the Farm Credit Act of 1933, 48 Stat. 273; 7 U. S. C. §610.

(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of<sup>21</sup> payments

<sup>18</sup> "Classification Act of 1923", 42 Stat. 1438; 5 U. S. C. §661 et seq.

<sup>19</sup> "Acts amendatory thereof", 43 Stat. 669; 45 Stat. 193, 776, 785; 46 Stat. 38, 1003, 1005; 48 Stat. 308; 5 U. S. C. §673 et passim.

<sup>20</sup> "An Act to maintain the credit of the United States Government", 48 Stat. 12 (1933).

<sup>21</sup> Deletion: "rental or benefit" and period following word "payments" stricken by sec. 16 of Public No. 320, 74th Congress, approved August 24, 1935.



authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

As amended by sec. 16 of Public No. 320, 74th Congress, approved August 24, 1935.

(2) Each order issued by the Secretary under this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

Added by sec. 16 of Public No. 320, 74th Congress, approved August 24, 1935.

(c) The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein.

(d) The Secretary of the Treasury is authorized to make such regulations as may be necessary to carry out the powers vested in him by this title.

(e) The action of any officer, employee, or agent in determining the amount of and in making any **payment authorized to be made under section 8** shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

Sec. 17 of Public No. 320, 74th Congress, approved August 24, 1935 struck out the phrase "rental or benefit payment" and inserted in lieu thereof the phrase "payment authorized to be made under section 8".

(f) The provisions of this title shall be applicable to the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam;

*except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of this Act, is authorized by proclamation to make the provisions of this title applicable to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam. The President is authorized to attach by Executive order any or all of such possessions to any internal-revenue collection district for the purpose of carrying out the provisions of this title with respect to the collection of taxes.*

The italicized matter was added by Sec. 7 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The matter in black face type was added by Public No. 331, 74th Congress, approved August 26, 1935.

(g) No person shall, while acting in any official capacity in the administration of this title, speculate, directly or indirectly, in any agricultural commodity or product thereof, to which this title applies, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than \$10,000 or imprisoned not more than two years, or both.

(h) For the efficient administration of the provisions of part 2 of this title, the provisions, including penalties, of sections 8, 9, and 10 of the Federal Trade Commission Act,<sup>22</sup> approved September 26, 1914, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of this title and to any person subject to the provisions of this title, whether or not a corporation. Hearings authorized or required under this title shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under part 2 of this title to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

(i) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: Provided, That information furnished to the Secretary of Agriculture pursuant

<sup>22</sup> For text of Secs. 8, 9, and 10 of the Federal Trade Commission Act, see pp. 141, 142.



to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof.

Added by sec. 18 of Public No. 320, 74th Congress, approved August 24, 1935.

#### COMMODITIES

SEC. 11. As used in this title, the term "basic agricultural commodity" means wheat, *rye*, *flax*, *barley*, cotton, field corn, *grain sorghums*, hogs, *cattle*, rice, **potatoes**, tobacco, *sugar beets* and *sugarcane*, *peanuts*, and milk and its products, and any regional or market classification, type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof. **As used in this title, the term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.**

Sec. 1 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934, added the words "sugar beets and sugarcane"; Sec. 1 of the Jones-Connally Cattle Act, Public No. 142, 73d Congress, approved April 7, 1934, added the word "cattle"; Sec. 3(b) of said Jones-Connally Cattle Act added the word "peanuts"; sec. 4 of said Jones-Connally Cattle Act added the words "rye, flax, and barley", and sec. 5 added the words "grain sorghums". Sec. 61 of Public No. 320, 74th Congress, approved August 24, 1935, added the word "potatoes" and the last sentence.

#### APPROPRIATION

SEC. 12.<sup>23</sup> (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this title and for **payments authorized to be made under section 8.** Such sum shall remain available until expended.

<sup>23</sup> For authorization of allocation of \$100,000,000 by sec. 220 of the National Industrial Recovery Act, see p. 144.

For appropriation under the National Industrial Recovery Act contained in Fourth Deficiency Act, fiscal year 1933, see p. 144.

For appropriation of an additional \$150,000,000 made by Public Resolution No. 27, see p. 146.

For reappropriation of said appropriation, see sec. 37 of Public No. 320, p. 111.

For authorization of appropriation of \$200,000,000 for purposes of sec. 12 of the Act and to support and balance the markets for the dairy and beef cattle industries, contained in sec. 2 of the Jones-Connally Act, and for authorization of appropriation of \$50,000,000 for purchase of dairy and beef products and to eliminate diseased cattle, contained in sec. 6 of the Jones-Connally Act, see p. 61. (For appropriation, see p. 146.)

For availability of proceeds of tax provided for by sec. 16 (c) of the Bankhead Cotton Act, see p. 171.

For availability of proceeds of tax provided for by sec. 10 (a) of the Kerr Tobacco Act, see p. 183.

For availability of proceeds of tax provided for by sec. 216 (a) of the Potato Act of 1935, see p. 125.

For appropriation of \$325,000,000 for Emergency Relief contained in title II of Emergency Appropriation Act, fiscal year 1935, see p. 74.

For appropriation of 30 per centum of the gross receipts from customs collections, see sec. 32 of Public No. 320, p. 109.

For authorization of appropriation of \$40,000,000, \$10,000,000 of which is appropriated for elimination of diseased dairy and beef cattle, see sec. 37 of Public No. 320, p. 111.

For appropriation of \$4,000,000,000 together with the separate funds established under "sec. 15 (f)" for relief purposes, including funds for the administration of the Agricultural Adjustment Act, as amended, during the period April 8, 1935, to April 8, 1936, made by Public Resolution No. 11, 74th Congress, see p. 147.

For authorization to Farm Credit Administration for loans to farmers for crop production and harvesting, see p. 148.



SEC. 12.] COMPILATION AGRICULTURAL ADJUSTMENT ACT

Sec. 19 of Public No. 320, 74th Congress, approved August 24, 1935 struck out the phrase "rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title" and inserted in lieu thereof the phrase set forth above in black face type.

*To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions and production adjustments with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section (12) and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: Provided, That not more than 60 per centum of such amount shall be used for either of such industries.*

Added by sec. 2 of the Jones-Connally Cattle Act, Public No. 142, 73d Congress, approved April 7, 1934.

(b)<sup>24</sup> In addition to the foregoing, **for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title is hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, payments authorized to be made under section 8, and refunds on taxes. The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.**

The matter in black face type was added by sec. 3 of Public No. 320, 74th Congress, approved August 24, 1935. A comparative print of the section setting forth the deletions made by said sec. 3 of Public No. 320 within heavy brackets is as follows:

(b) In addition to the foregoing, **for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title [are]** is hereby appropriated to be available to the Secretary of Agriculture for **[expansion of markets and removal of surplus agricultural products]** (1) **the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with the program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, [rental and benefit] payments [.] authorized to be made under section 8, and refunds on taxes.** The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary

<sup>24</sup> Authorization of expenditures for International Wheat Advisory Committee, see p. 151.

of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this title.

#### TERMINATION OF ACT

SEC. 13. This title shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this title as he finds are not requisite to carrying out the declared policy with respect to such commodity. *In the case of sugar beets and sugarcane, the taxes provided by this title shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate on December 31, 1937, unless this title ceases to be in effect at an earlier date, as hereinabove provided.* The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section.

The italicized matter was added by sec. 15 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. Sec. 20 (a) of Public No. 320, 74th Congress, approved August 24, 1935, struck out the phrase "at the end of three years after the adoption of this amendment", and inserted in lieu thereof the phrase, set forth above in black face type, "on December 31, 1937."

#### SEPARABILITY OF PROVISIONS

SEC. 14. If any provision of this title is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this title and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby.

#### SUPPLEMENTARY REVENUE PROVISIONS

##### EXEMPTIONS AND COMPENSATING TAXES

SEC. 15. (a) If *at any time* the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, *considering* the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the



manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, *specifying whether such result will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, || and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products ||<sup>25</sup> until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (§) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this title with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products, or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 21, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 21, the Secretary of the Treasury shall refund or credit any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934<sup>26</sup>) between June 13 and July 7, 1934, both inclusive.*

The italicized matter was added by sec. II of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934. The matter in black face type was added by sec. 21 of Public No. 320, 74th Congress, approved August 24, 1935. The following comparative print sets forth within heavy brackets the matter deleted by said sec. II of the Flannagan Amendment:

SEC. 15. (a) If *at any time* the Secretary of Agriculture finds, upon investigation [at any time] and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value [compared with], *considering* the quantity of the commodity used for their manufacture that the imposition of the processing tax would prevent in whole or in large part the use

<sup>25</sup> So in original.

<sup>26</sup> For text of certificate, see p. 152.



of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, *specifying whether such result will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) [and] the Secretary of the Treasury shall [abate or] refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any [processing] tax [assessed or] paid [after the date of such certification] (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this title with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products,*

\* \* \* \* \*

(b) No tax shall be required to be paid on the processing of any commodity by or for the producer thereof for consumption by his own family, employees, or household; and the Secretary of Agriculture is authorized, by regulations, to exempt from the payment of the processing tax the processing of commodities by or for the producer thereof for sale by him where, in the judgment of the Secretary, the imposition of a processing tax with respect thereto is unnecessary to effectuate the declared policy.

(b-1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax-payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he has in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: Provided, That in case any such processor or other person is the producer of such rice (or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: And provided further, That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this title, applicable to the sale of such rice by

the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the face value of tax-payment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so transferred, and was, if eligible, a cooperating producer.

Added by sec. 8 of Public No. 20, 74th Congress, approved March 18, 1935.

(b-2) The warrants authorized and directed to be issued by subsection (b-1) of this section—

(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

Added by sec. 8 of Public No. 20, 74th Congress, approved March 18, 1935.

(b-3) (1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year or both.

(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this title or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or both.

(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years



1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and share-croppers) and others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.

Added by sec. 8 of Public No. 20, 74th Congress, approved March 18, 1935.

(c) Any person, *including any State or Federal organization or institution, delivering any product to any organization for charitable distribution, or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this title subject to tax, be entitled to a refund of the amount of any tax due and paid under this title with respect to such product so delivered, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so delivered: Provided, however, That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. The word "State" as used in this section shall include a State and any political subdivision thereof.*

The italicized matter was added by the Dieterich Amendment, Public No. 367, 73d Congress, approved June 16, 1934. The next to the last sentence, which was also added by said Dieterich Amendment, was stricken by sec. 22 of Public No. 320, 74th Congress, approved August 24, 1935. It read as follows:

*"No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use."*

(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors or producers thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax im-



posed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity.

The words "or producers" were added by sec. 23 of Public No. 320, 74th Congress, approved August 24, 1935.

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or <sup>27</sup> partly from such commodity and imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, *whether imported as merchandise, or as a container of merchandise, or otherwise*, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity into such an article at the time of importation: **Provided, (1) That in the event any of the provisions of this title have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this title, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this title does not apply shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the governments thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control.**

The italicized matter was added by sec. 11 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The phrase "into such an article", in black face type, was added by sec. 24 of Public No. 320, 74th Congress, approved August 24, 1935. The balance of the matter in black face type was added by sec. 9 of Public No. 20, 74th Congress, approved March 18, 1935.

(f) *The President, in his discretion, is authorized by proclamation to decree that all or part of the taxes collected from the processing of sugar beets or sugarcane in Puerto Rico, the Territory of Hawaii, the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam (if the provisions of this title are made applicable thereto), and/or upon the processing in continental United States of sugar produced in, or coming from, said areas, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund, in the name of the respective area to which related, to be used and expended for the benefit of agriculture and/or paid as rental or benefit payments in connection with the reduction in the acreage, or reduction in the production for market, or both, of sugar beets and/or sugarcane, and/or used and expended for expansion of markets and for removal of surplus agricultural products in such areas,*

<sup>27</sup> Deletion: "in chief value" stricken by sec. 11 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

*respectively, as the Secretary of Agriculture, with the approval of the President, shall direct.*<sup>23</sup>

Subsec. "(f)" was added by sec. 8 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

#### FLOOR STOCKS

SEC. 16.<sup>29</sup> (a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

(1) Whenever the processing tax first takes effect, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date. *Such tax upon articles imported prior to, but in customs custody or control on, the effective date, shall be paid prior to release therefrom. In the case of sugar, the tax on floor stocks, except the retail stocks of persons engaged in retail trade, shall be paid for the month in which the stocks are sold, or used in the manufacture of other articles, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.*

The italicized matter was added by sec. 10 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: Provided, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.

The matter in black face type was added by sec. 25 of Public No. 320, 74th Congress, approved August 24, 1935. The matter deleted by said sec. 25 of Public No. 320 is shown within heavy brackets in the following comparative print:

(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded **[to such person]** or credited in the case of a person

<sup>28</sup> Appropriation of processing taxes for relief purposes, see Public Res. No. 11, 74th Congress, approved April 8, 1935, p. 147.

<sup>29</sup> The provisions of sec. 16 do not apply in certain situations to machinery belting processed from cotton. See Public No. 470, 73d Congress, approved June 26, 1934, p. 153.



holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is a processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum [(or if it has not been paid, the tax shall be abated)] in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed [.] if the processing had occurred on such date: **Provided**, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.

(b) The tax imposed by subsection (a) shall not apply to the retail stocks of persons engaged in retail trade, held at the date the processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. **Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1,<sup>30</sup> and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1<sup>30</sup>) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated.**

Sec. 26 of Public No. 320, 74th Congress, approved August 24, 1935, struck out the last sentence of subsec. "(b)", which read as follows:

"The tax refund or abatement provided in subsection (a) shall not apply to the retail stocks of persons engaged in retail trade, held on the date the processing tax is wholly terminated."

and inserted the matter in black face type.

(c) (1) *Any sugar, imported prior to the effective date of a processing tax on sugar beets and sugarcane, with respect to which it is established (under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury) that there was paid at the time of importation a duty at the rate in effect on January 1, 1934, and (2) any sugar held on April 25, 1934, by, or to be delivered under a bona fide contract of sale entered into prior to April 25, 1934, to, any manufacturer or converter, for use in the production of any article (except sugar) and not for ultimate consumption as sugar, and (3) any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, shall be exempt from taxation under subsection (a) of this section, but sugar held in customs custody or control on April 25, 1934, shall not be exempt from taxation under subsection (a) of this section, unless the rate of duty paid upon the withdrawal thereof was the rate of duty in effect on January 1, 1934.*

<sup>30</sup> For classification, see p. 154.



Subsec. "(c)" was added by sec. 17 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The last sentence thereof was stricken by sec. 20 (b) of Public No. 320, 74th Congress, approved August 24, 1935. It read as follows:

"The provisions of paragraph (2) of subsection (a) of this section shall not apply in the case of sugar beets or sugarcane or the products thereof."

See last sentence of "sec. 16(e)(1)."

*(d) The Secretary of Agriculture is authorized to purchase, out of such proceeds of taxes as are available therefor, during the period this Act is in effect with respect to sugar beets and sugarcane, not in excess of three hundred thousand tons of sugar raw value from the surplus stocks of direct-consumption sugar produced in the United States beet-sugar area, at a price not in excess of the market price for direct-consumption sugar on the date of purchase, and to dispose of such sugar by sale or otherwise, including distribution to any organization for the relief of the unemployed, under such conditions and at such times as will tend to effectuate the declared policy of section 8a of this Act. The sugar so purchased shall not be included in the quota for the United States beet-sugar area. All proceeds received by the Secretary of Agriculture, in the exercise of the powers granted hereby, are appropriated to be available to the Secretary of Agriculture for the purposes described in subsections (a) and (b) of section 12 of this Act.*

Subsec. "(d)" was added by sec. 17 of Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

*(e) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:*

*(1) Whenever, subsequent to June 26, 1934, the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the commodity from which processed, if the processing had occurred on such date: Provided, however, That no such credit or refund shall be made in the case of hogs unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any floor stocks tax was paid prior to the adoption of this amendment. In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.*

Subsec. "(e)" was originally enacted by sec. 1 of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934,

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as subsec. "(C)". It was corrected to "(e)" by sec. 10 of Public No. 20, 74th Congress, approved March 18, 1935. The matter in black face type was added by sec. 27 (a) of Public No. 320, 74th Congress, approved August 24, 1935.

(2) *Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.*

Added by sec. 1 of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934.

(3) *Whenever the processing tax is suspended or is to be refunded pursuant to a certification of the Secretary of Agriculture to the Secretary of the Treasury, under section 15 (a) of this Act, the provisions of subdivision (1) of this subsection shall become applicable.*

Paragraph "(3)" was added by sec. 1 of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934. Sec. 10 of Public No. 20, 74th Congress, approved March 18, 1935, struck out the phrase "of subsection (c) of this section" and inserted in its stead the phrase "of this subsection".

(4) *Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 15 (a) of this Act, the provisions of subdivision (2) of this subsection shall become applicable.*

Paragraph "(4)" was added by sec. 1 of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934. Sec. 10 of Public No. 20, 74th Congress, approved March 18, 1935, struck out the phrase "of subsection (c)" and inserted in its stead the phrase "of this subsection".

(5) *The provisions of this amendment shall be effective on and after June 1, 1934.*

Paragraph "(5)" was added by sec. 1 of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934.

(f) *The provisions of this section shall not be applicable with respect to rice.*

Subsec. "(f)" was added by sec. 10 of Public No. 20, 74th Congress, approved March 18, 1935.

(g) *No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10.*

Subsec. "(g)" was added by sec. 27 (b) of Public No. 320, 74th Congress, approved August 24, 1935.



EXPORTATIONS

SEC. 17. (a) Upon the exportation to any foreign country (*and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam*) of any product **processed wholly or partly from a commodity** with respect to which **product or commodity** a tax has been paid or is payable under this title, *the tax due and payable or due and paid shall be credited or refunded.* Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, **the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax.** In the case of rice, a tax due under this title which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding. *In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this title with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise.*

The italicized matter was added by sec. 12 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934. The matter in black face type was added by sec. 28 of Public No. 320, 74th Congress, approved August 24, 1935, with the exception of the third sentence, with reference to "rice", which was added by sec. 11 of Public No. 20, 74th Congress, approved March 18, 1935. The matter deleted by said sec. 12 of the Jones-Costigan Sugar Act is shown within light brackets, and the matter deleted by said sec. 28 of Public No. 320 is shown within heavy brackets in the following comparative print:

SEC. 17. (a) Upon the exportation to any foreign country ([including] *and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam*) of any product **processed wholly or partly from a commodity** with respect to which **product or commodity** a tax has been paid or is payable under this title, [or of any product processed wholly or [in chief value] *partly* from a commodity with respect to which *product or commodity* a tax has been paid under this title,] [the exporter thereof shall be entitled at the time of exportation to a refund of the amount of such tax] *the tax due and payable or due and paid shall be credited or refunded.* Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, [*The*] **the credit or refund shall be [paid]** allowed to the [exporter or to the] *consignor named in the bill of lading under which the product is exported* [, as determined under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.] or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax.

\* \* \* \* \*

NOTE.—The amendments made by said sec. 12 of the Jones-Costigan Sugar Act are made effective as of the date of the enactment of the Agricultural Adjustment Act.



(b) Upon the giving of bond satisfactory to the Secretary of the Treasury for the faithful observance of the provisions of this title requiring the payment of taxes, any person shall be entitled, without payment of the tax, to process for such exportation any commodity with respect to which a tax is imposed by this title, or to hold for such exportation any article processed wholly or *partly* therefrom.

SEC. 13 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934, struck out the phrase "in chief value" and inserted in its stead the word "partly".

#### EXISTING CONTRACTS

SEC. 18. (a) If (1) any processor, jobber, or wholesaler has, prior to the date a tax with respect to any commodity is first imposed under this title, made a bona fide contract of sale for delivery on or after such date, of any article processed wholly or in chief value from such commodity, and if (2) such contract does not permit the addition to the amount to be paid thereunder of the whole of such tax, then (unless the contract prohibits such addition) the vendee shall pay so much of the tax as is not permitted to be added to the contract price.

(b) Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated and shall be collected and paid to the United States by the vendor in the same manner as other taxes under this title. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner of Internal Revenue who shall cause collections of such taxes to be made from the vendee.

#### COLLECTION OF TAXES

SEC. 19.<sup>31</sup> (a) The taxes provided in this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926,<sup>32</sup> and the provisions of section 626 of the Revenue Act of 1932,<sup>33</sup> shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable in respect of taxes imposed by this title: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding *one hundred and eighty* days, of the payment of **not exceeding three-fourths of the amount of the taxes covered by any return under this title, but postponement of all taxes covered by returns under this title for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month.**

<sup>31</sup> Extension of time for payment of tax on cotton, see p. 151.

<sup>32</sup> 44 Stat. 116. Certain penalties with respect to the taxes imposed by sec. 600 of the Revenue Act of 1926 are provided by sec. 1114 of that Act. Secs. 3176, as amended, and 3184 of the Revised Statutes, relating to returns and payment of taxes, are also applicable. See pp. 156, 160, 161.

<sup>33</sup> For text of sec. 626 of the Revenue Act of 1932, see p. 153.

SEC. 3 of the Flannagan Amendment, Public No. 476, 73d Congress, approved June 26, 1934, substituted "one hundred and eighty" for "ninety".

The matter in black face type was added by Section 29 (a) of Public No. 320, 74th Congress, approved August 24, 1935.

(c) In order that the payment of taxes under this title may not impose any immediate undue financial burden upon processors or distributors, any processor or distributor subject to such taxes shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act.<sup>34</sup>

(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax.

Subsec. "(d)" was added by sec. 29 (b) of Public No. 320, 74th Congress, approved August 24, 1935.

SEC. 20. (a) *Whoever in connection with the purchase of, or offer to purchase, any commodity, subject to any tax under this title, or which is to be subjected to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price of the commodity consists of a tax imposed under this title, or (2) ascribing a particular part of the deduction from the market price or the agreed price of the commodity, to a tax imposed under this title, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.*

(b) *Whoever in connection with the processing of any commodity subject to any tax under this title, whether commercially, for toll, upon an exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this title, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.*

<sup>34</sup> For text of sec. 5 of Reconstruction Finance Corporation Act, as amended, see p. 135.



(c) *Whoever in connection with any settlement, under a contract to buy any commodity, and/or to sell such commodity, or any product or byproduct thereof, subject to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, consists of a tax under this title, or (2) ascribing a particular amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, to a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount so deducted and/or ascribed to such tax, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.*

Sec. 20 was added by sec. 16 of the Jones-Costigan Sugar Act, Public No. 213, 73d Congress, approved May 9, 1934.

**Sec. 21. (a)** No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act<sup>35</sup> in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

(b) The taxes imposed under this title, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined,

<sup>35</sup> Federal Declaratory Judgments Act, 48 Stat. 955; 28 U. S. C. §400.



prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.<sup>36</sup>

(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been

<sup>36</sup> For text of Sec. 317 of Tariff Act of 1930, see p.134.

entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person



designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175<sup>37</sup> shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

(f) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless, within one year after the right to such refund, credit, or abatement has accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, except that if the right to any such refund, credit, or abatement accrued prior to the date of the adoption of this amendment, then such one year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

(g) The provisions of section 3226, Revised Statutes,<sup>38</sup> as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.<sup>39</sup>

"Sec. 21" was added by sec. 30 of Public No. 320, 74th Congress, approved August 24, 1935.

#### IMPORTS

Sec. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or

<sup>37</sup> For text of Revised Statutes 3174 and 3175, see p. 160.

<sup>38</sup> For text of Revised Statutes 3226, see p. 161.

<sup>39</sup> For text of sec. 317 of the Tariff Act of 1930, see p. 162.



operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: Provided, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

(d) Any decision of the President as to facts under this section shall be final.

(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section.

"Sec. 22" was added by sec. 31 of Public No. 320, 74th Congress, approved August 24, 1935.

## FARM CREDIT ACT OF 1933

48 Stat. 273; 7 U. S. C. § 610

[PUBLIC—No. 75—73d CONGRESS]

### APPOINTMENT OF STATE ADMINISTRATOR

(Extract)

SEC. 86. Subdivision (a) of section 10 of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes," approved May 12, 1933, is amended by inserting before the period at the end of the first sentence a colon and the following: "*And provided further*, That the State Administrator appointed to administer this Act in each State shall be appointed by the President, by and with the advice and consent of the Senate."

\* \* \* \* \*

Approved, June 16, 1933.

## NATIONAL INDUSTRIAL RECOVERY ACT

48 Stat. 199; 15 U. S. C. § 708

[PUBLIC—No. 67—73d CONGRESS]

(Extracts)

SEC. 8. (a) This title shall not be construed to repeal or modify any of the provisions of title I of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933; and such title I of said Act approved May 12, 1933, may for all purposes be hereafter referred to as the "Agricultural Adjustment Act."

(b) The President may, in his discretion, in order to avoid conflicts in the administration of the Agricultural Adjustment Act and this title, delegate any of his functions and powers under this title with respect to trades, industries, or subdivisions thereof which are engaged in the handling of any agricultural commodity or product thereof, or of any competing commodity or product thereof, to the Secretary of Agriculture.

48 Stat. 210; 7 U. S. C. § 607

SEC. 221. Section 7 of the Agricultural Adjustment Act, approved May 12, 1933, is amended by striking out all of its present terms and provisions and substituting therefor the following:

"SEC. 7. The Secretary shall sell the cotton held by him at his discretion, but subject to the foregoing provisions: *Provided*, That he shall dispose of all cotton held by him by March 1, 1936: *Provided further*, That notwithstanding the provisions of section 6, the Secretary shall have authority to enter into option contracts with producers of cotton to sell to the producers such cotton held by him, in such amounts and at such prices and upon such terms and conditions as the Secretary may deem advisable, in combination with rental or benefit payments provided for in part 2 of this title.

"Notwithstanding any provisions of existing law, the Secretary of Agriculture may in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such Act."

\* \* \* \* \*

Approved, June 16, 1933, 11:55 a. m.



# JONES-CONNALLY CATTLE ACT

48 Stat. 528; 7 U. S. C. § 608 et seq.

[PUBLIC—No. 142—73D CONGRESS]

[H. R. 7478]

## AN ACT

To amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "hogs" a comma and the word "cattle".

SEC. 2. Subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof a new paragraph as follows:

"To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions and production adjustments with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section (12) and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries."

SEC. 3. (a) Subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by renumbering paragraph (5) as paragraph (6) and by adding after paragraph (4) a new paragraph as follows:

"(5) In case of peanuts, the term 'processing' means the cleaning, polishing, grading, shelling, crushing, or other processing thereof."

(b) Section 11 of such Act, as amended, is amended by adding after the word "tobacco" a comma and the word "peanuts".

SEC. 4. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "wheat" a comma and the words "rye, flax, barley."

SEC. 5. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the words "field corn" a comma and the words "grain sorghums".

SEC. 6. There is authorized to be appropriated the sum of \$50,000,000 to enable the Secretary of Agriculture to make advances to the Federal Surplus Relief Corporation for the purchase of dairy and beef products for distribution for relief purposes, and to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bangs' disease, and to make payments to owners with respect thereto.

SEC. 7. The first sentence of subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce."

Approved, April 7, 1934.

# JONES-COSTIGAN SUGAR ACT

48 Stat. 670; 7 U.S.C. § 608a et passim

[PUBLIC—No. 213—73D CONGRESS]

[H.R. 8861]

## AN ACT

To include sugar beets and sugarcane as basic agricultural commodities under the Agricultural Adjustment Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco" a comma and the words "sugar beets and sugarcane", followed by a comma.

SEC. 2. Subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by adding after paragraph (5) thereof the following:

"(6) In the case of sugar beets and sugarcane—

"(A) The term 'first domestic processing' means each domestic processing, including each processing of successive domestic processings, of sugar beets, sugarcane, or raw sugar, which directly results in direct-consumption sugar.

"(B) The term 'sugar' means sugar in any form whatsoever, derived from sugar beets or sugarcane, whether raw sugar or direct-consumption sugar, including also edible molasses, sirups and any mixture containing sugar (except blackstrap molasses and beet molasses).

"(C) The term 'blackstrap molasses' means the commercially so-designated 'byproduct' of the cane-sugar industry, not used for human consumption or for the extraction of sugar.

"(D) The term 'beet molasses' means the commercially so-designated 'byproduct' of the beet-sugar industry, not used for human consumption or for the extraction of sugar.

"(E) The term 'raw sugar' means any sugar, as defined above, manufactured or marketed in, or brought into, the United States, in any form whatsoever, for the purpose of being, or which shall be, further refined (or improved in quality, or further prepared for distribution or use).

"(F) The term 'direct-consumption sugar' means any sugar, as defined above, manufactured or marketed in, or brought into, the United States in any form whatsoever, for any purpose other than to be further refined (or improved in quality, or further prepared for distribution or use).

"(G) The term 'raw value' means a standard unit of sugar testing ninety-six sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of 'raw value' and for purposes of quota and tax measurements all sugar shall be translated into terms of 'raw value' according to regulations to be issued by the Secretary, except that in the case of direct-consumption sugar produced in continental United States from sugar beets the raw value of such sugar shall be one and seven one-hundredths times the weight thereof."

SEC. 3. (a) The first two sentences of subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, are amended to

read as follows: "The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that if the Secretary has reason to believe that the tax at such rate on the processing of the commodity generally or for any particular use or uses will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary finds that any such result will occur, then the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, shall be at such rate as will prevent such accumulation of surplus stocks and depression of the farm price of the commodity."

(b) Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by adding at the end thereof the following: "In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); except that such rate shall not exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1."

SEC. 4. Section 8 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new section:

"SEC. 8a. (1) Having due regard to the welfare of domestic producers and to the protection of domestic consumers and to a just relation between the prices received by domestic producers and the prices paid by domestic consumers, the Secretary of Agriculture may, in order to effectuate the declared policy of this Act, from time to time, by orders or regulations—

"(A) (i) Forbid processors, handlers of sugar, and others from importing sugar into continental United States for consumption, or which shall be consumed, therein, and/or from transporting to, receiving in, processing or marketing in, continental United States, and/or from processing in any area to which the provisions of this title with respect to sugar beets and sugarcane may be made applicable, for consumption in continental United States, sugar from the Virgin Islands, the Philippine Islands, the Canal Zone, American



Samoa, the island of Guam, and from foreign countries, including Cuba, respectively, in excess of quotas fixed by the Secretary of Agriculture, for any calendar year, based on average quantities therefrom brought into or imported into continental United States for consumption, or which was actually consumed, therein, during such three years, respectively, in the years 1925-1933, inclusive, as the Secretary of Agriculture may, from time to time, determine to be the most representative respective three years, adjusted, together with the quotas established pursuant to paragraph (ii), (in such manner as the Secretary shall determine) to the remainder of the total estimated consumption requirements of sugar for continental United States, determined pursuant to subsection (2) of this section, after deducting therefrom the quotas for continental United States, provided for by paragraph (B) of this subsection: *Provided, however*, That in such quotas there may be included, in the case of the Virgin Islands, the Philippine Islands, the Canal Zone, American Samoa, and the island of Guam, direct-consumption sugar up to an amount not exceeding the respective quantities of direct-consumption sugar therefrom brought into or imported into continental United States for consumption, or which was actually consumed, therein during the year 1931, 1932, or 1933, whichever is greater, and in the case of Cuba, direct-consumption sugar up to an amount not exceeding 22 per centum of the quota established for Cuba: *And provided further*, That any imported sugar, with respect to which a drawback of duty is allowed, under the provisions of section 313 of the Tariff Act of 1930, shall not be charged against the quota established by the Secretary of Agriculture hereunder for the country from which such sugar was imported, and the Secretary of Agriculture may, by orders or regulations, readjust any quota subject to the provisions of this section, except quotas fixed by paragraph (B) of this subsection; and may allot (or appoint an officer, including the Governor General of the Philippine Islands for that area, in his name to allot) any quota, and readjust any such allotment, from time to time, among the processors, handlers of sugar and others; and/or

“(ii) Forbid processors, handlers of sugar, and others from transporting to, receiving in, processing or marketing in, continental United States, and/or from processing in the Territory of Hawaii or Puerto Rico for consumption in continental United States, sugar from the Territory of Hawaii or Puerto Rico, in excess of quotas fixed by the Secretary of Agriculture, for any calendar year, based on average quantities therefrom brought into continental United States for consumption, or which was actually consumed, therein during such three years, respectively, in the years 1925-1933, inclusive, as the Secretary of Agriculture may, from time to time, determine to be the most representative respective three years, adjusted, together with the quotas established pursuant to paragraph (i), (in such manner as the Secretary shall determine) to the remainder of the total estimated consumption requirements of sugar for continental United States, determined pursuant to subsection (2) of this section, after deducting therefrom the quotas for continental United States, provided for by paragraph (B) of this subsection: *Provided, however*, That in such quotas there may be included direct-consumption sugar up to an amount not exceeding the respec-

tive quantities of direct-consumption sugar therefrom brought into continental United States for consumption, or which was actually consumed, therein during the year 1931, 1932, or 1933, whichever is greater, and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, handlers of sugar, and others; and/or

“(B) Forbid processors, handlers of sugar, and others from marketing in, or in the current of, or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce, sugar manufactured from sugar beets and/or sugarcane, produced in the continental United States beet-sugar-producing area, the States of Louisiana and Florida, and any other State or States in excess of the following quotas, for any calendar year, except as provided for in subsection (2) of this section: United States beet-sugar area, one million five hundred and fifty thousand short tons raw value; the States of Louisiana and Florida, except as may be provided under paragraph (C) of this subsection, two hundred and sixty thousand short tons raw value; and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, handlers of sugar, and others; and/or

“(C) For any calendar year, determine the quota, but not less than the quota provided in paragraph (B), for any area producing less than two hundred and fifty thousand long tons of sugar raw value during the next preceding calendar year; and/or

“(D) Establish a separate quota or quotas for edible molasses and/or sirup of cane juice produced in continental United States, in addition to, and/or for edible molasses, sirups, and sugar mixtures produced in any other area or areas to which this title relates, as part of or in addition to, the quotas established pursuant to paragraphs (A) to (C), inclusive, of this subsection, for use as such and not for the extraction of sugar.

“(2) (A) The consumption requirements of sugar for continental United States, for the calendar year 1934, and for each succeeding calendar year, shall be determined by the Secretary of Agriculture from available statistics of the Department of Agriculture. The consumption requirements so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy and the purposes of this Act, be adjusted by him to meet the actual requirements of the consumer as determined by the Secretary.

“(B) In the event that available statistics of the Department of Agriculture during the course of any calendar year indicate that the consumption requirements of sugar for continental United States for such calendar year will exceed the amount of the consumption requirements determined for that year, the Secretary of Agriculture may prorate such estimated excess amount on the basis of the respective quotas determined by and pursuant to subsection (1) of this section: *Provided, however*, That for each calendar year there shall be allotted to continental United States not less than 30 per centum of any amount of consumption requirements therefor above six million four hundred and fifty-two thousand short tons raw value.

“(C) In the event that available statistics of the Department of Agriculture during the course of any calendar year indicate that the

consumption requirements of sugar for continental United States for such year will be less than the amount of the consumption requirements determined for that year, the amount of such deficiency may be proportionately deducted from the respective quotas determined by and pursuant to paragraph (A) of subsection (1) of this section.

"(D) If, during any calendar year, any producing area is unable to produce and deliver its full quota of sugar, the Secretary of Agriculture may prorate this deficiency among the other areas on the basis of their respective quotas and ability to supply the deficiency.

"(E) Notwithstanding the provisions of paragraphs (A) to (C), inclusive, of subsection (1) of this section, the Secretary of Agriculture may, in order to effectuate the declared policy of this Act, from time to time, by orders or regulations, deduct from the quotas for production, importing, receiving, and/or marketing, and/or from the allotments thereof, established pursuant to said paragraphs, in any given year, an amount for each year, respectively, representing the surplus stocks of sugar produced in that area, or a portion of the total surplus stocks of sugar produced in that area, in whole or in part, which may have accumulated in the year next preceding, over and above the quotas established for such year.

"(3) In order more fully to effectuate the declared policy of this Act, as set forth in its declaration of policy, and to insure the equitable division between producers and/or growers and/or the processors of sugar beets or sugarcane of any of the proceeds which may be derived from the growing, processing and/or marketing of such sugar beets or sugarcane, and the processing and/or marketing of the products and byproducts thereof, all agreements authorized by this Act relating to sugar beets, sugarcane, or the products thereof may contain provisions which will limit or regulate child labor, and will fix minimum wages for workers or growers employed by the producers and/or processors of sugar beets and/or sugarcane who are parties to such agreements; and the Secretary, upon the request of any producer, or grower, or worker, or of any association of producers, or growers, or workers, or of any processor, of sugar beets or sugarcane, is hereby authorized to adjudicate any dispute as to any of the terms under which sugar beets or sugarcane are grown or are to be grown and/or marketed, and the sugar and byproducts thereof are to be marketed. The decision and any determination of the Secretary shall be final.

"(4) Any person willfully violating any order or regulation of the Secretary of Agriculture issued under this section shall, upon conviction, be punished by a fine of not more than \$100.

"(5) Any person willfully exceeding any quota or allotment fixed for him under this title by the Secretary of Agriculture, and any other person knowingly participating, or aiding, in the exceeding of said quota or allotment, shall forfeit to the United States a sum equal to three times the current market value of such excess, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

"(6) The several district courts of the United States are hereby vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this section, or of any order, regulation, agreement, or license heretofore or here-



after made or issued pursuant to this title, in any proceeding now pending or hereafter brought in said courts.

"(7) Upon the request of the Secretary of Agriculture, it shall be the duty of the several district attorneys of the United States, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to, this title.

"(8) The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this title or now or hereafter existing at law or in equity.

"(9) The term 'person' as used in this title includes an individual, partnership, corporation, association, and any other business unit."

SEC. 5. Paragraph (6) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is hereby renumbered (7).

SEC. 6. Section 9 of the Agricultural Adjustment Act, as amended, is amended, by adding after subsection (e) thereof the following new subsection:

"(f) For the purposes of part 2 of this title, processing shall be held to include manufacturing."

SEC. 7. Subsection (f) of section 10 of the Agricultural Adjustment Act, as amended, is amended by striking out the period at the end of such subsection and adding a semicolon and the following: "except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of this Act, is authorized by proclamation to make the provisions of this title applicable to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam."

SEC. 8. Section 15 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(f) The President, in his discretion, is authorized by proclamation to decree that all or part of the taxes collected from the processing of sugar beets or sugarcane in Puerto Rico, the Territory of Hawaii, the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam (if the provisions of this title are made applicable thereto), and/or upon the processing in continental United States of sugar produced in, or coming from, said areas, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund, in the name of the respective area to which related, to be used and expended for the benefit of agriculture and/or paid as rental or benefit payments in connection with the reduction in the acreage, or reduction in the production for market, or both, of sugar beets and/or sugarcane, and/or used and expended for expansion of markets and for removal of surplus agricultural products in such areas, respectively, as the Secretary of Agriculture, with the approval of the President, shall direct."

SEC. 9. Subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by striking out the period after the word "proclamation", in line 8, and inserting in lieu thereof a semicolon and the following: "except that, in the case of sugar

beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after the adoption of this amendment, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after the date of the adoption of this amendment. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934."

SEC. 10. Section 16 (a) (1) of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following:

"Such tax upon articles imported prior to, but in customs custody or control on, the effective date, shall be paid prior to release therefrom. In the case of sugar, the tax on floor stocks, except the retail stocks of persons engaged in retail trade, shall be paid for the month in which the stocks are sold, or used in the manufacture of other articles, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury."

SEC. 11. Section 15 (e) of the Agricultural Adjustment Act, as amended, is amended by striking out in lines 3 and 4 the words "in chief value", and inserting in lieu thereof the word "partly"; by inserting in line 7, after the comma following the word "apply", the words "whether imported as merchandise, or as a container of merchandise, or otherwise" followed by a comma; and by inserting in line 9, after the word "processing", the words "of such commodity".

SEC. 12. Section 17 (a) of the Agricultural Adjustment Act, as amended, is amended, effective as of the date of the enactment of the said Act, to read as follows:

"(a) Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product with respect to which a tax has been paid under this title, or of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid under this title, the tax due and paid shall be refunded. The refund shall be paid to the exporter or to the consignor named in the bill of lading under which the product is exported, as determined under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this title with respect to sugar beets and sugarcane is not made applicable thereto. The term 'product' includes any product exported as merchandise, or as a container for merchandise, or otherwise."

SEC. 13. Section 17 (b) of the Agricultural Adjustment Act, as amended, is amended by striking out in line 6 the words "in chief value" and inserting in lieu thereof the word "partly".

SEC. 14. Subsection (1) of section 8 of the Agricultural Adjustment Act, as amended, is amended by striking out the period at the end of the first sentence, and inserting in lieu thereof a semicolon and the following: "and, in the case of sugar beets or sugar-

cane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor-stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, to make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane."

SEC. 15. Section 13 of the Agricultural Adjustment Act, as amended, is amended by inserting after the first sentence thereof the following: "In the case of sugar beets and sugarcane, the taxes provided by this title shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate at the end of three years after the adoption of this amendment unless this title ceases to be in effect at an earlier date, as hereinabove provided."

SEC. 16. The Agricultural Adjustment Act, as amended, is amended by the addition of the following new section numbered "20":

"SEC. 20. (a) Whoever in connection with the purchase of, or offer to purchase, any commodity, subject to any tax under this title, or which is to be subjected to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the market price or the agreed price of the commodity consists of a tax imposed under this title, or (2) ascribing a particular part of the deduction from the market price or the agreed price of the commodity, to a tax imposed under this title, knowing that such statement is false or that the tax is not so great as the amount deducted from the market price or the agreed price of the commodity, ascribed to such tax, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.

"(b) Whoever in connection with the processing of any commodity subject to any tax under this title, whether commercially, for toll, upon an exchange, or otherwise, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the charge for said processing, whether commercially, for toll, upon an exchange, or otherwise, consists of a tax imposed under this title, or (2) ascribing a particular part of the charge for processing, whether commercially, for toll, upon an exchange, or otherwise, to a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount charged for said processing ascribed to such tax, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both.

"(c) Whoever in connection with any settlement, under a contract to buy any commodity, and/or to sell such commodity, or any prod-



uct or byproduct thereof, subject to any tax under this title, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, consists of a tax under this title, or (2) ascribing a particular amount deducted from the gross sales price, in arriving at the basis of settlement under the contract, to a tax imposed under this title, knowing that such statement is false, or that the tax is not so great as the amount so deducted and/or ascribed to such tax, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment for not exceeding six months, or both."

SEC. 17. Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding the following new subsections:

"(c) (1) Any sugar, imported prior to the effective date of a processing tax on sugar beets and sugarcane, with respect to which it is established (under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury) that there was paid at the time of importation a duty at the rate in effect on January 1, 1934, and (2) any sugar held on April 25, 1934, by, or to be delivered under a bona fide contract of sale entered into prior to April 25, 1934, to, any manufacturer or converter, for use in the production of any article (except sugar) and not for ultimate consumption as sugar, and (3) any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, shall be exempt from taxation under subsection (a) of this section, but sugar held in customs custody or control on April 25, 1934, shall not be exempt from taxation under subsection (a) of this section, unless the rate of duty paid upon the withdrawal thereof was the rate of duty in effect on January 1, 1934. The provisions of paragraph (2) of subsection (a) of this section shall not apply in the case of sugar beets or sugarcane or the products thereof.

"(d) The Secretary of Agriculture is authorized to purchase, out of such proceeds of taxes as are available therefor, during the period this Act is in effect with respect to sugar beets and sugarcane, not in excess of three hundred thousand tons of sugar raw value from the surplus stocks of direct-consumption sugar produced in the United States beet-sugar area, at a price not in excess of the market price for direct consumption sugar on the date of purchase, and to dispose of such sugar by sale or otherwise, including distribution to any organization for the relief of the unemployed, under such conditions and at such times as will tend to effectuate the declared policy of section 8a of this Act. The sugar so purchased shall not be included in the quota for the United States beet-sugar area. All proceeds received by the Secretary of Agriculture, in the exercise of the powers granted hereby, are appropriated to be available to the Secretary of Agriculture for the purposes described in subsections (a) and (b) of section 12 of this Act."

Approved, May 9, 1934, 11.23 a.m.

## DIETERICH AMENDMENT

48 Stat. 973; 7 U.S.C. § 615

(Refunds or credits of taxes upon the sale of articles to organizations for charitable use)

[PUBLIC—No. 367—73D CONGRESS]

[S. 2674]

AN ACT

To amend an Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (c) of section 15 of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933, is amended to read as follows:

"Any person, including any State or Federal organization or institution, delivering any product to any organization for charitable distribution, or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this title subject to tax, be entitled to a refund of the amount of any tax due and paid under this title with respect to such product so delivered, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so delivered: *Provided, however,* That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use. The word 'State' as used in this section shall include a State and any political subdivision thereof."

Approved, June 16, 1934.

# EMERGENCY APPROPRIATION ACT, FISCAL YEAR 1935

48 Stat. 1058-59; 7 U.S.C. §§ 604, 605

[PUBLIC—No. 412—73D CONGRESS]

(Extracts from Title II)

## AMENDMENTS TO AGRICULTURAL ADJUSTMENT ACT

Section 4 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"SEC. 4. (a) The Secretary of Agriculture shall have authority to borrow money upon all cotton in his possession or control and may, at his discretion, deposit as collateral for such loans the warehouse receipts for such cotton.

"(b) The Secretary of the Treasury is authorized to advance, in his discretion, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available, until March 1, 1936, to the Secretary of Agriculture, for paying off any debt or debts which may have been or may be incurred by the Secretary of Agriculture and discharging any lien or liens which may have arisen or may arise pursuant to part 1 of this title, for protecting title to any cotton which may have been or may be acquired by the Secretary of Agriculture under authority of part 1 of this title, and for paying any expenses (including, but not limited to, warehouse charges, insurance, salaries, interest, costs, and commissions) incident to carrying, handling, insuring, and marketing of said cotton and for the purposes described in subsection (e) of this section.

"(c) The funds authorized by subsection (b) of this section shall be made available to the Secretary of Agriculture from time to time upon his request and with the approval of the Secretary of the Treasury. Each such request shall be accompanied by a statement showing by weight and average grade and staple the quantity of cotton held by the Secretary of Agriculture and the approximate aggregate market value thereof.

"(d) It is the purpose of subsections (b) and (c) to provide an alternative method to that provided by subsection (a), for enabling the Secretary of Agriculture to finance the acquisition, carrying, handling, insuring, and marketing of cotton acquired by him under authority of section 3 of this Act. The Secretary of Agriculture may at his discretion make use of either or both of the methods provided in this section for obtaining funds for the purposes hereinabove enumerated.

"(e) The Secretary of Agriculture is authorized to use in his discretion any funds obtained by him pursuant to the provisions of subsection (a) or (b) of this section or of section 5 for making advances to any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring,



or marketing of any cotton acquired by the Secretary of Agriculture, to enable any such agency to perform, exercise, and discharge any of the duties, privileges, and functions which such agency may be authorized to perform, exercise, or discharge.

“(f) The proceeds derived from the sale of cotton shall be held for the Secretary of Agriculture by the Treasurer of the United States in a special deposit account and shall be used by the Secretary of Agriculture to discharge the obligations incurred under authority of part 1 of this title. Whenever any cotton shall be marketed the net proceeds (after discharge of other obligations incurred with respect thereto) derived from the sale thereof shall be used, to the extent required, to reimburse the Treasury for such portion of the funds hereby provided for as shall have been used, which shall be covered into the Treasury as a miscellaneous receipt. If when all of the cotton acquired by the Secretary of Agriculture shall have been marketed and all of the obligations incurred with respect to such cotton shall have been discharged, and the Treasury reimbursed for any and all sums which may have been advanced pursuant to subsection (b), there shall remain any balance in the hands of the Secretary of Agriculture, such balance shall be covered into the Treasury as miscellaneous receipts.”

Section 5 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

“SEC. 5. The Reconstruction Finance Corporation is hereby authorized and directed to advance money and to make loans to the Secretary of Agriculture for the purpose of providing funds with which to enable the Secretary of Agriculture to perform the duties and functions which he is directed or authorized to perform under the provisions of part 1 of this title, provided such advance of money or such loans shall not be for amounts in excess of the market value of the cotton, or the interest of the Secretary of Agriculture in the cotton, against which the advance or loan is to be made at the time such advance or loan may be applied for by the Secretary of Agriculture, plus costs, expenses, and commissions incurred incidental to handling, carrying, and marketing of such cotton. The Secretary of Agriculture shall not be required to pledge or deposit warehouse receipts or other evidences of title to cotton as security for any advance of money or loans made pursuant hereto, but it shall be sufficient if the Secretary shall give to the Reconstruction Finance Corporation a written statement showing the quantity of cotton by weight and the average grade and staple of the cotton against which the advance or loan is to be made. The amount of notes, bonds, debentures, and other obligations which the Reconstruction Finance Corporation is authorized and empowered to issue and to have outstanding at any one time under existing law is hereby increased by an amount sufficient to carry out the provisions of this section.”

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## EMERGENCY APPROPRIATION ACT, 1935

### APPROPRIATION—EMERGENCY RELIEF

To meet the emergency and necessity for relief in stricken agricultural areas, to remain available until June 30, 1935, \$525,000,000, to be allocated by the President to supplement the appropriations heretofore made for emergency purposes and in addition thereto for (1) making loans to farmers for, and/or (2) the purchase, sale, gift, or other disposition of, seed, feed, freight, summer fallowing and similar purposes; expenditures hereunder and the manner in which they shall be incurred, allowed, and paid, shall be determined by the President, and may include expenditures for personal services and rent in the District of Columbia and elsewhere and for printing and binding and may be made without regard to the provisions of section 3709 of the Revised Statutes.

If, during the present drought emergency, a carrier subject to the Interstate Commerce Act shall, at the request of any agent of the United States, authorized so to do, establish special rates for the benefit of drought sufferers such a carrier shall not be deemed to have violated the Interstate Commerce Act with reference to undue preference or unjust discrimination by reason of the fact that it applies such special rates only to those designated as drought sufferers by the authorized agents of the United States or of any State.

The Reconstruction Finance Corporation is hereby authorized to purchase marketable securities, satisfactory to said Corporation, acquired or to be acquired by the Federal Emergency Administration of Public Works, and any sums paid for such securities shall be available to said Federal Emergency Administration of Public Works for the making of additional loans (but not grants) under the provisions of title II of the National Industrial Recovery Act: *Provided*, That the amount that the Reconstruction Finance Corporation may have invested at any one time in such securities shall not exceed \$250,000,000. The amount of notes, debentures, and bonds or other such obligations which the Reconstruction Finance Corporation is authorized and empowered to have outstanding at any one time pursuant to section 9 of the Reconstruction Finance Corporation Act, as amended, is hereby increased by the sums necessary for these purchases, not to exceed \$250,000,000.

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Approved, June 19, 1934.

## FLANNAGAN AMENDMENT

48 Stat. 1241; 7 U. S. C. § 609 et passim

(PROCESSING TAX ON HOGS; FLOOR STOCKS TAX ADJUSTMENT;  
SUSPENSION OF TAX ON LOW VALUED ARTICLES)

[PUBLIC—No. 476—73D CONGRESS]

[H. R. 9329]

### AN ACT

To amend the Agricultural Adjustment Act with respect to the processing tax on hogs.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That (I) section 16 of the Agricultural Adjustment Act is amended by adding thereto the following new section:

“(C) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:

“(1) Whenever the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the commodity from which processed, if the processing had occurred on such date: *Provided, however*, That no such credit or refund shall be made unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any floor-stocks tax was paid prior to the adoption of this amendment.

“(2) Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and



the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.

"(3) Whenever the processing tax is suspended or is to be refunded pursuant to a certification of the Secretary of Agriculture to the Secretary of the Treasury, under section 15 (a) of this Act, the provisions of subdivision (1) of subsection (c) of this section shall become applicable.

"(4) Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 15 (a) of this Act, the provisions of subdivision (2) of subsection (c) shall become applicable.

"(5) The provisions of this amendment shall be effective on and after June 1, 1934."

(II) Section 15 (a) of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(a) If at any time the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, considering the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, specifying whether such result will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this title with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products."

SEC. 2. (a) Paragraph (4) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is repealed.

(b) Paragraph (7) of subsection (d) of such section 9 is amended to read as follows:

## FLANNAGAN AMENDMENT

“(7) In the case of any other commodity, the term ‘processing’ means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use, as defined by regulations of the Secretary of Agriculture; and in prescribing such regulations the Secretary shall give due weight to the customs of the industry.”

SEC. 3. Section 19 (b) of the Agricultural Adjustment Act, as amended, is amended by striking out the word “ninety” and inserting in lieu thereof the words “one hundred and eighty”.

Approved, June 26, 1934.

[PUBLIC—No. 20—74TH CONGRESS]

49 Stat. 45; 7 U. S. C. A. §§608-617

[H. R. 5221]

AN ACT

To amend the Agricultural Adjustment Act with respect to rice, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by striking out the comma after the words "except that" in the second sentence and inserting in lieu thereof the following: "(1)"; and by striking out the period at the end of said second sentence and inserting a comma and the following: "and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935."

SEC. 2. Subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by inserting at the end of the third sentence the following: "In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year."

SEC. 3. Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by inserting after the words "except that" in the first sentence the following: "(1)"; by striking out the period at the end of said first sentence and the word "If" at the beginning of the second sentence and inserting in lieu thereof a comma and the words "and if"; and by striking out the period at the end of said second sentence and inserting in lieu thereof a comma and the following: "and (2) for the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be at the rate of 1 cent per pound of rough rice, subject, however, to any modification of such rate which may be made pursuant to any other provision of this title."

SEC. 4. Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by inserting after the third sentence the following: "In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing."

SEC. 5. Subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by striking out the word "rice" and the commas which precede and follow said word in the two places in which the word occurs in paragraph (1).



SEC. 6. Subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is further amended by renumbering paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following:

“(7) In the case of rice—

“(A) The term ‘rough rice’ means rice in that condition which is usual and customary when delivered by the producer to a processor.

“(B) The term ‘processing’ means the cleaning, shelling, milling (including custom milling for toll as well as commercial milling), grinding, rolling, or other processing (except grinding or cracking by or for the producer thereof for feed for his own livestock, cleaning by or directly for a producer for seed purposes, and drying) of rough rice; and in the case of rough rice with respect to which a tax-payment warrant has been previously issued or applied for by application then pending, the term ‘processing’ means any one of the above mentioned processings or any preparation or handling in connection with the sale or other disposition thereof.

“(C) The term ‘cooperating producer’ means any person (including any share-tenant or share-cropper) whom the Secretary of Agriculture finds to be willing to participate in the 1935 production-adjustment program for rice.

“(D) The term ‘processor’, as used in subsection (b-1) of section 15 of this title, means any person (including a cooperative association of producers) engaged in the processing of rice on a commercial basis (including custom milling for toll as well as commercial milling).”

SEC. 7. Subsection (1) of section 8 of the Agricultural Adjustment Act, as amended, is amended by inserting at the end of the first sentence thereof the following new sentence: “In the case of rice, the Secretary, in exercising the discretion conferred upon him by this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to this section, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of the Act, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.”

SEC. 8. Section 15 of the Agricultural Adjustment Act, as amended, is further amended by inserting after subsection (b) the following subsections:

“(b-1) The Secretary of Agriculture is authorized and directed to issue tax-payment warrants, with respect to rough rice produced in 1933 and 1934 (provided the processing of such rice is not exempt from the tax, and provided no tax payment warrant has been previously issued with respect thereto or previously applied for by application then pending, sufficient to cover the tax with respect to the processing thereof at the rate in effect at the time of such issuance, to any processor with respect to any such rice which he has in his possession on March 31, 1935, and to, or at the direction of any other person with respect to any such rice which, on or after April 1, 1935, he delivers for processing or sells to a processor: *Provided*, That in case any such processor or other person is the producer of such rice

(or has received such rice by gift, bequest, or descent from the producer thereof) that such processor or other person is, if eligible, a cooperating producer: *And provided further*, That in case such processor or other person is not the producer thereof (nor a person who has received such rice by gift, bequest, or descent from the producer thereof), (a) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, prior to April 1, 1935, such producer received the price prescribed in any marketing agreement, license, regulation, or administrative ruling, pursuant to this title, applicable to the sale of such rice by the producer, and (b) that, if the title to such rice was transferred from the producer thereof, whether by operation of law or otherwise, on or after April 1, 1935, such producer received at least the full market price therefor plus an amount equal to 99 per centum of the face value of tax-payment warrants sufficient to cover the tax on the processing of such rice at rate in effect at the time title was so transferred, and was, if eligible, a cooperating producer.

“(b-2) The warrants authorized and directed to be issued by subsection (b-1) of this section—

“(1) shall be issued by the Secretary of Agriculture or his duly authorized agent in such manner, at such time or times, at such place or places, in such form, and subject to such terms and conditions with reference to the transfer thereof or the voiding of warrants fraudulently obtained and/or erroneously issued, as the Secretary of Agriculture may prescribe, and the Secretary of Agriculture is authorized to discontinue the further issuance of tax-payment warrants at any time or times and in any region or regions when he shall determine that the rice in any such region or regions can no longer be identified adequately as rice grown in 1933 or 1934; and

“(2) shall be accepted by the Collector of Internal Revenue and the Secretary of the Treasury at the face value thereof in payment of any processing tax on rice.

“(b-3) (1) Any person who deals or traffics in, or purchases any such tax-payment warrant or the right of any person thereto at less than 99 per centum of its face value shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year or both.

“(2) Any person who, with intent to defraud, secures or attempts to secure, or aids or assists in or procures, counsels, or advises, the securing or attempting to secure any tax-payment warrant with respect to rice as to which any tax-payment warrant has been theretofore issued shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

“(3) Any person who with intent to defraud forges, makes, alters, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification provided for by this title or any regulation issued pursuant thereto, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant or stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture

of such warrants or stamps, tags, or other means of identification, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or both.

“(4) All producers, warehousemen, processors, and common carriers, having information with respect to rice produced in the years 1933 or 1934, may be required to furnish to the Secretary of Agriculture such information as he shall, by order, prescribe as necessary to safeguard the issuance, transfer, and/or use of tax-payment warrants.

“(5) The Secretary of Agriculture may make regulations protecting the interests of producers (including share-tenants and sharecroppers) and others, in the issuance, holding, use, and/or transfer of such tax-payment warrants.”

SEC. 9. Subsection (e) of section 15. of the Agricultural Adjustment Act, as amended, is further amended, by inserting after the word “*Provided*” the following: “(1) That in the event any of the provisions of this title have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this title, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2).”

SEC. 10. Section 16 of the Agricultural Adjustment Act, as amended, is further amended by relettering subsection “(C)” as subsection “(e)”; by striking out in subdivisions 3 and 4 of said subsection the words “of subsection (c) of this section” and “of subsection (c)”, respectively, and inserting in each such subdivision in lieu of the words so stricken out, the words “of this subsection”; and by adding at the end of said section the following:

“(f) The provisions of this section shall not be applicable with respect to rice.”

SEC. 11. Subsection (a) of section 17 of the Agricultural Adjustment Act, as amended, is further amended by inserting after the second sentence the following: “In the case of rice, a tax due under this title which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding.”

Approved, March 18, 1935.



## PARALLEL REFERENCE TABLE

49 Stat. 750

PUBLIC No. 320—74TH CONGRESS

(H. R. 8492)

Public No. 320	Agricultural Adjustment Act	Public No. 320	Agricultural Adjustment Act
§1(a) amends	§2(1)	§35 amends	§4(b)
1(b) “	§2(2), 2(3)	§36 “	§4(f)
2 “	§3	§37	Appropriation re cattle
3 “	§12(b)	§38	Saving legislation
4 “	§3(2)		
5 “	§3(3)		
6 “	§3(4), 8d, 8e		Bankhead Cotton Act
7 “	§3(5)	§39(a) amends	§2, 3(a)
8 “	§3a(1)	§39(b) “	§3(a)
9 “	§3a(6)	§39(c) “	§5(a)
10 “	§3a(7)	§39(d)	Saving legislation
11 “	§9(a)	§39(e) adds	§7(d)
12 “	§9(b)	§40(a) amends	§17(a)
13 “	§9(c)	§40(b) adds	§17(b)
14(a) “	§9(d) (1)	§41 amends	§9(d)
14(b) repeals	§9(d) (5)	§42 adds	§4(h)
15 adds	§9(g)		
16 amends	§10(b)		Kerr Tobacco Act
17 “	§10(e)		
18 adds	§10(i)	§43 amends	Title
19 amends	§12(a)	§44 adds	§1(l), 1(m)
20(a) “	§13	§45 amends	§2
20(b) “	§16(c)	§46 “	§3(b)
21 “	§15(a)	§47 “	§5(a)
22 “	§15(c)	§48 “	§5(b)
23 “	§15(d)	§49 “	§5(d)
24 “	§15(e)	§50 “	§8(b)
25 “	§16(a)	§51 adds	§9(c)
26 “	§16(b)	§52 amends	§10(a)
27(a) “	§16(e) (1)	§53 “	§11(a)
27(b) adds	§16(g)	§54 “	§14
28 amends	§17(a)	§55	Submarginal lands appropriation
29(a) “	§19(b)	§56-60	Anti-Hog-Cholera Serum and Hog-Cholera Virus
29(b) adds	§19(d)		Agricultural Adjustment Act
30 “	§21	§61 amends	§11
31 “	§22	§62 “	§2(l)
§32	Appropriation of customs duties		Title II Potato Act of 1935
§33 amends	§7		
§34 repeals	§6		

[PUBLIC—No. 320—74TH CONGRESS]

49 Stat. 750

[H. R. 8492]

AN ACT

To amend the Agricultural Adjustment Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the first sentence of subsection (1) of section 2 of the Agricultural Adjustment Act, as amended, is amended by striking out the first word and inserting in lieu thereof the following: "Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to", and by inserting before the period at the end thereof a semicolon and the following: "and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period".

(b) Section 2 of the Agricultural Adjustment Act, as amended, is amended by striking out subsections (2) and (3) and inserting in lieu thereof the following:

"(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section."

SEC. 2. Section 8 of the Agricultural Adjustment Act, as amended, is amended by striking out everything preceding subsection (2) and inserting in lieu thereof the following:

"(1) Whenever the Secretary of Agriculture has reason to believe that:

"(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary

finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of an investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

“(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,

“(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and

“(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

“(3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

“(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

“(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

“(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

“(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

“(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

“(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title, he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary



finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

“(5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

“(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

“(7) In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

“(8) In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this title, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

“(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest.”

SEC. 3. The first sentence of subsection (b) of section 12 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "In addition to the foregoing, for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title is hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, payments authorized to be made under section 8, and refunds on taxes."

SEC. 4. Subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended by designating said subsection as section 8b, by inserting said section at the end of section 8a, and by amending the first sentence thereof to read as follows: "In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof."

SEC. 5. The Agricultural Adjustment Act, as amended, is amended by striking out section 8 (3) thereof and by adding after section 8b, the following new section:

### "ORDERS

"SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as 'handlers'. Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

#### "COMMODITIES TO WHICH APPLICABLE

"(2) Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soybeans and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin).

## “NOTICE AND HEARING

“(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

## “FINDING AND ISSUANCE OF ORDER

“(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

## “TERMS—MILK AND ITS PRODUCTS

“(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

“(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

“(B) Providing:

“(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

“(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d)



a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

“(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

“(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5).

“(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

“(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the ‘Capper-Volstead Act’, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all market in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection (5) for such milk.

“(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

#### “TERMS—OTHER COMMODITIES

“(6) In the case of fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning) and their products, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning) and their products, soybeans and their products, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to

this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

“(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

“(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

“(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

“(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

“(E) Establishing, or providing for the establishment of, reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

“TERMS COMMON TO ALL ORDERS

“(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

“(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

“(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

“(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

“(i) To administer such order in accordance with its terms and provisions;

“(ii) To make rules and regulations to effectuate the terms and provisions of such order;

“(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

“(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (C) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

“(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

#### “ORDERS WITH MARKETING AGREEMENT

“(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

“(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of



such commodity for sale in the marketing area specified in such marketing agreement, or order, or

“(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

“ORDERS WITH OR WITHOUT MARKETING AGREEMENT

“(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

“(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

“(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

“(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

“(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such repre-

sentative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

“MANNER OF REGULATION AND APPLICABILITY

“(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

“REGIONAL APPLICATION

“(11) (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

“(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

“(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

“COOPERATIVE ASSOCIATION REPRESENTATION

“(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

“RETAILER AND PRODUCER EXEMPTION

“(13) (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities

or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

“(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

#### “ VIOLATION OF ORDER

“(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

#### “ PETITION BY HANDLER AND REVIEW

“(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

“(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).



## “TERMINATION OF ORDERS AND MARKETING AGREEMENTS

“(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

“(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

“(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

## “PROVISIONS APPLICABLE TO AMENDMENTS

“(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8c, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.”

SEC. 6. The Agricultural Adjustment Act, as amended, is further amended by striking out subsection (4) of section 8 thereof and adding after section 8c thereof the following new sections:

## “BOOKS AND RECORDS

“SEC. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms

of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

“(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

#### “ DETERMINATION OF BASE PERIOD

“SEC. 8e. In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919–July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.”

SEC. 7. Subsection (5) of section 8 of the Agricultural Adjustment Act, as amended, is further amended by designating said subsection as section 8f, by inserting said section at the end of section 8e, and by striking out the last sentence thereof.

SEC. 8. Subsection (1) of section 8a of the Agricultural Adjustment Act, as amended, is amended as follows:

(a) by striking out the word "handlers" wherever it appears and by inserting in lieu thereof the words "persons engaged in the handling";

(b) by striking out the phrase "or in competition with" and the comma following such phrase in paragraph (B);

(c) by inserting the word "directly" before the words "to burden" in paragraph (B);

(d) by striking out the words "in any way" in paragraph (B).

SEC. 9. Subsection (6) of section 8a of the Agricultural Adjustment Act, as amended, is amended by inserting the word "or" after the comma following the word "regulation," and by striking out the words "or license".

SEC. 10. Subsection (7) of section 8a of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new sentence: "Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action."

SEC. 11. (a) Subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is amended by striking out all of the second sentence preceding the semicolon and inserting in lieu thereof the following: "When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 8 are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation".

(b) The eighth sentence of such subsection (a) is amended by striking out "rental or benefit payments" and inserting in lieu thereof: "all payments authorized under section 8 which are in effect".

SEC. 12. Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"TAX RATE GENERALLY

"(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all



processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

#### “ SPECIFIC TAX RATES

“(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

#### “ SPECIFIC TAX RATE—RICE

“(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

#### “ SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

“(4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied,

assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

“SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

“(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley.

“ADJUSTMENT OF RATE

“(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

“(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

“(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

“(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

“(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions

of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

“(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

“(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

“(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

“(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

“(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.



## “RICE—SPECIAL RULE

“(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

## “SUGAR—SPECIAL RULE

“(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.

## “WHEAT PREMIUMS

“(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.”

SEC. 13. Subsection (c) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

“(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be

adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title."

SEC. 14. (a) Paragraph (1) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by inserting following the word "wheat" in the two instances in which it occurs, a comma, and the following: "rye, barley,"

(b) Paragraph (5) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is hereby repealed.

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) Nothing contained in this title shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint."

SEC. 16. Subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

"(2) Each order issued by the Secretary under this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy."

SEC. 17. Subsection (e) of section 10 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental or benefit payment" and inserting in lieu thereof "payment authorized to be made under section 8".

SEC. 18. Section 10 of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new subsection:

“(i) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof.”

SEC. 19. The first sentence of subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by striking out “rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title” and inserting in lieu thereof “payments authorized to be made under section 8”.

SEC. 20. (a) The second sentence of section 13 of the Agricultural Adjustment Act, as amended, is amended by striking out “at the end of three years after the adoption of this amendment” and inserting in lieu thereof “on December 31, 1937”.

(b) Subsection (c) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out the last sentence thereof.

SEC. 21. Subsection (a) of section 15 of the Agricultural Adjustment Act, as amended, is amended by striking out the period at the end of the subsection and inserting in lieu thereof a comma and the following: “or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 21, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 21, the Secretary of the Treasury shall refund or credit any processing tax paid on or



before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13 and July 7, 1934, both inclusive.”

SEC. 22. Subsection (c) of section 15 of the Agricultural Adjustment Act, as amended, is amended by striking out the next to the last sentence, which reads as follows: “No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use.”

SEC. 23. The first sentence of subsection (d) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding after the word “processors” the words “or producers”.

SEC. 24. Subsection (e) of section 15 of the Agricultural Adjustment Act, as amended, is amended by inserting after the words “with respect to domestic processing of such commodity” the following: “into such an article”.

SEC. 25. Subsection (a) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out subdivision (2) thereof and inserting in lieu thereof the following:

“(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.”

SEC. 26. The second sentence of subsection (b) of section 16 of the Agricultural Adjustment Act, as amended, is amended to read as follows: “Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated.”

SEC. 27. (a) Paragraph (1) of subsection (e) of section 16 of the Agricultural Adjustment Act, as amended, is amended by inserting after the first word in the first sentence a comma and the following: "subsequent to June 26, 1934," by inserting in the proviso after the word "made", the following: "in the case of hogs"; and by inserting at the end of such paragraph the following: "In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

SEC. 28. Subsection (a) of section 17 of the Agricultural Adjustment Act, as amended, is amended by striking out the first two sentences thereof and inserting in lieu thereof the following: "Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this title, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

SEC. 29. (a) Subsection (b) of section 19 of the Agricultural Adjustment Act, as amended, is amended by inserting in the proviso, after the words "of the payment of" the following: "not exceeding three-fourths of the amount of the", and by adding at the end of the proviso the following: "but postponement of all taxes covered by returns under this title for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month".

(b) Section 19 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any

person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax."

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:

"SEC. 21. (a) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

"(b) The taxes imposed under this title, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

"(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under



section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

“(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

“(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and

opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

“(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

“(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to

any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

“(f) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless, within one year after the right to such refund, credit, or abatement has accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, except that if the right to any such refund, credit, or abatement accrued prior to the date of the adoption of this amendment, then such one year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

“(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.”

SEC. 31. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

“IMPORTS

“SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such



investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

“(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

“(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

“(d) Any decision of the President as to facts under this section shall be final.

“(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section.”

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of

Agriculture finds will tend to increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

SEC. 33. Section 7 of Title 1 of the Agricultural Adjustment Act, as amended by section 221 of the National Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art. 607), is amended by striking it out and inserting in lieu thereof the following:

"SEC. 7. The Secretary shall sell cotton held or acquired by him pursuant to authority of this Act at his discretion subject only to the conditions and limitations of Title 1 of this Act: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

"Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

"Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such Act."

SEC. 34. Section 6 of the Agricultural Adjustment Act, is hereby repealed.

SEC. 35. Section 4 (b) of Title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by striking out the words "to be available until March 1, 1936" and inserting at the end of said section a new sentence to read as follows: "This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of Title 1 of this Act, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture."

SEC. 36. Section 4 (f) of Title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by adding at the end thereof a new paragraph to read as follows:

"The word 'obligation' when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other

expenses incident to handling, carrying, insuring, and marketing of said cotton."

SEC. 37. There is hereby authorized to be appropriated the sum of \$40,000,000, of which sum \$10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds appropriated by or in pursuance of the authorization contained in this section and the funds appropriated by the second paragraph of Public Resolution Numbered 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the Act entitled "An Act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes", approved April 7, 1934. The sums appropriated or reappropriated by this section shall remain available until June 30, 1936, and such sums and the sums appropriated in pursuance of the authorization contained in this section shall be available to carry out the purposes of both this section and such section 6, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution Numbered 27 to carry out the purposes of section 2 of such Act of April 7, 1934, shall remain available for the purposes of such section 2 until June 30, 1936.

SEC. 38. Nothing contained in this Act shall (a), invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937 except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act.



## AMENDMENTS TO BANKHEAD COTTON ACT

SEC. 39. (a) Section 2 and the first sentence of section 3 (a) of the Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, are amended by inserting after the phrase "the crop year 1935-1936", wherever such phrase appears, the phrase "or the crop year 1936-1937 or the crop year 1937-1938".

(b) Section 3 (a) of such Act, as amended, is amended by adding at the end thereof the following new sentence: "In ascertaining the sentiment of the producers with respect to the crop year 1936-1937 or the crop year 1937-1938, the vote in favor of the compulsory tax features of this Act, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection."

(c) Section 5 (a) of an Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes," approved April 21, 1934, as amended, is amended by inserting after the sentence "that no State shall receive an allotment of less than 200,000 bales of cotton if in any one year of five years prior to this date the production of the State equaled 250,000 bales" the following: "And be it further provided that after the year 1935 no State shall receive an allotment of less than 80,000 bales of cotton if in any one year of five years prior to the date of the passage of said Act the production of the State equaled 100,000 bales."

(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such Act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-1936 that may be marketed exempt from payment of the tax levied by such Act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress.

(e) Section 7 of such Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) For each crop year subsequent to the crop year 1934-1935 in which this Act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required

for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary of Agriculture prior to the date of the adoption of this amendment, or to require any reallocation."

SEC. 40. Section 17 of such Act of April 21, 1934, as amended, is amended by inserting "(a)" before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this Act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this Act with respect to cotton ginned during the crop year 1935-1936 or any subsequent crop year in which this Act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever."

SEC. 41. Section 9 (d) of such Act of April 21, 1934, as amended (relating to transfer of exemption certificates), is amended by inserting after the first sentence thereof the following new sentence. "No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State."

SEC. 42. Section 4 of such Act of April 21, 1934, as amended, is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this Act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household."

#### AMENDMENTS TO KERR TOBACCO ACT

SEC. 43. The title of the Act entitled "An Act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes", approved June 28, 1934, is amended to read as follows:

"An Act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels

of interstate and foreign commerce, to raise revenue, and for other purposes.”

SEC. 44. Section 1 of said Act is amended by adding at the end thereof the following new subsections:

“(1) The term ‘Puerto Rican tobacco’ means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.”

“(m) The term ‘cigar-wrapper tobacco’ means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.”

SEC. 45. Section 2 of said Act is amended by inserting after the words “consumption of tobacco” a comma and the words “to raise revenue.”

SEC. 46. Subsection (b) of section 3 of said Act is amended by striking out the period and the remainder of the subsection following the first sentence and inserting in lieu thereof the following: “and to all tobacco harvested in the crop year 1935-1936, except Maryland tobacco, Puerto Rican tobacco, and cigar wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this Act, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939.”

SEC. 47. Subsection (a) of section 5 of said Act is amended by inserting after the designation “(a)” at the beginning thereof the following: “(1)”; and by inserting at the end of said subsection the following paragraph:

“(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: *Provided*, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer.”



SEC. 48. Subsection (b) of section 5 of said Act is amended by striking out the first sentence of said subsection and inserting in lieu thereof the following:

“There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 per centum of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this Act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: *Provided*, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering one thousand five hundred pounds or less of any type of tobacco.”

SEC. 49. Subsection (d) of section 5 of said Act is amended to read as follows:

“If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this Act or the Agricultural Adjustment Act, any warrant issued during such crop year to such person shall be void upon demand in writing for the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this Act upon the sale of tobacco becomes void pursuant to this subsection either before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale.”

SEC. 50. Section 8 of said Act is amended by striking out subsection (b) of that section and inserting in lieu thereof two new subsections as follows:

“(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person

required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue.

“(c) Any person willfully failing or refusing to file any return required to be filed under this section, or filing willfully any false return, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000.”

SEC. 51. Section 9 of said act is amended by adding at the end thereof the following new subsection:

“(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this Act shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 7 and 8 of this Act, but no fee or compensation shall be charged or received by any such agent for administering such an oath.”

SEC. 52. The first sentence of subsection (a) of section 10 of said Act is amended to read as follows: “The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this Act, and other payments under this Act.”

SEC. 53. Subsection (a) of section 11 of said Act is amended effective as of the date of the enactment of the said Act by striking out the words “six months” and by inserting in lieu thereof the words “one year”.

SEC. 54. Section 14 of said Act is amended to read as follows:

“The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within thirty days after the date of the proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 3 of this Act.”

SEC. 55. There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President, for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

In carrying out the provisions of this section, the President is authorized:

(a) To make contracts and grants; and

(b) To acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth.

#### ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

SEC. 56. It is hereby declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum

and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

SEC. 57. In order to effectuate the policy declared in section 56 of this Act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

SEC. 58. Marketing agreements entered into pursuant to section 57 of this Act shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 57, will tend to effectuate the policy declared in section 56 of this Act:

(a) One or more of the terms and conditions specified in subsection (7) of section 8c of the Agricultural Adjustment Act, as amended.

(b) Terms and conditions requiring each manufacturer to have available on May 1 of each year a supply of completed serum equivalent to not less than 40 per centum of his previous year's sales.

SEC. 59. Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 57 of this Act, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

SEC. 60. Subject to the policy declared in section 56 of this act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 59 of this Act, and the provisions of section 8d of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 57 and orders issued pursuant to section 59 of this Act. The provisions of subsections (a), (b) (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 56 to 60, inclusive, of this Act.



## POTATO CONTROL

SEC. 61. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "rice" a comma and the word "potatoes" and by adding at the end of said section 11 a new sentence as follows: "As used in this title, the term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*."

SEC. 62. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco", in both the second and third sentences of said subsection, the words "and potatoes".

## TITLE II

## DEFINITIONS

SEC. 201. When used in this title, unless the context otherwise requires—

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means a collector of internal revenue.

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

(e) The term "allotment year" means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from a tax levied by this title has been established.

(i) The term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land.

#### IMPOSITION OF THE TAX

SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*. That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

(c) At least thirty days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer who is entitled to an allotment for the last allotment year for which such apportionments were made shall be entitled to one vote; and such taxes shall not be in effect and the provisions of this title shall not be operative with respect to potatoes produced in such succeeding year unless the majority of the votes cast in such referendum are cast in favor of continuing such taxes in effect.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of

Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal revenue collections.

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal revenue collections.

#### ALLOTMENTS

SEC. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least thirty days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919–July 1929 without reducing the total net income of potato producers from potatoes below the largest probable income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall, for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided.

SEC. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the four years in which the highest potato acreage was harvested in such State in the years 1927–1934, inclusive, multiplied by the average yield per acre for the four years that the yield of potatoes per acre for such State was highest in the years 1927–1934, inclusive, multiplied by the average annual percentage of the crop



produced in such State during the years 1929-1934, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 per centum of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

SEC. 204a. The quantity determined and proclaimed by the Secretary of Agriculture pursuant to Section 203, and the quantity apportioned to each State pursuant to Section 204, may at such intervals as the Secretary of Agriculture finds necessary to effectuate the declared policy and purposes of this Act be adjusted by him: *Provided*, That the quantity so determined and proclaimed shall not be increased or decreased by more than 5 per cent.

SEC. 205. Ninety-five per centum of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932-1934, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any two or more years during the years 1932-1934, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

SEC. 206. Not in excess of 5 per centum of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

SEC. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

SEC. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

SEC. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary of Agriculture, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exemption stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

SEC. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

#### PACKAGING

SEC. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title,



all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of the taxes levied by this title. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

#### RULES AND REGULATIONS

SEC. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancelation, destruction, and disposition of tax stamps and the cancelation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

SEC. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced, or sold, or subject to a tax on a change in the form of potatoes, may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records,

or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

#### REFUNDS

SEC. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within one year after the date of payment of such tax, penalty, interest, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after such disallowance, notify the taxpayer thereof by registered mail.

(c) The amount of the taxes imposed by subsection (a) of section 202, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

#### APPROPRIATION

SEC. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, as amended, for refunds of taxes and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected under this title during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories,

respectively, to be used and expended by the governments thereof for the benefit of agriculture.

(b) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

(c) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

(d) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses, for refunds of taxes, and for other advances or payments under this title.

#### GENERAL AND PENAL PROVISIONS

SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of



1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

SEC. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, and to establish regional, State, and local committees and associations of producers of potatoes.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

SEC. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than one year.

SEC. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemptior stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both.

SEC. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps affixed thereto. Any revenue officer may destroy the tax stamps or tax-exemption stamps affixed to any emptied potato package.

SEC. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay, when due, any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp

required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding six months, or both.

SEC. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

SEC. 225. All provisions of law, including penalties, applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926,<sup>40</sup> except section 1121 of the Revenue Act of 1926,<sup>41</sup> and except section 614 of the Revenue Act of 1932,<sup>42</sup> shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

SEC. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who affects a change in the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

SEC. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change in the form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than two years after such sale or change in the form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

#### EXPORTS

SEC. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title

<sup>40</sup> Certain penalties with respect to the taxes imposed by secs. 600 and 800 of the Revenue Act of 1926 are provided by secs. 802, 803, 805(b) and 1114 of that Act, see pp. 155, 156. Sec. 3176 as amended and sec. 3184 of the Revised Statutes relating to returns and payment of taxes are also applicable, see pp. 160, 161.

<sup>41</sup> For text of sec. 1121 of the Revenue Act of 1926, see p. 157.

<sup>42</sup> The reference to sec. 614 of the Revenue Act of 1932 should have been to the Revenue Act of 1928. For text of sec. 614 of both the 1928 and 1932 Revenue Acts, see pp. 153, 150.

shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

#### IMPORTS

SEC. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929–1934, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary of Agriculture under section 203 of this title is of the annual average of the quantities of potatoes sold in the continental United States during the years 1929–1934, inclusive; and

SEC. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to an internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

SEC. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required



for the sales of potatoes harvested and sold in the continental United States.

SEC. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens to result in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

SEC. 233. This title may be cited as the "Potato Act of 1935."  
Approved, August 24, 1935.

[PUBLIC—No. 331—74TH CONGRESS]

[S. 2652]

49 Stat. 801

AN ACT

To authorize the President to attach certain possessions of the United States to internal-revenue collection districts for the purpose of collecting processing taxes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (f) of section 10 of the Agricultural Adjustment Act, as amended by section 7 of the Act of May 9, 1934 (48 Stat. 670), be further amended by adding at the end of such subsection the following: "The President is authorized to attach by Executive order any or all of such possessions to any internal-revenue collection district for the purpose of carrying out the provisions of this title with respect to the collection of taxes."

Approved, August 26, 1935.

ACT ENABLING CONGRESSMEN TO ENTER INTO CONTRACTS MADE UNDER THE AGRICULTURAL ADJUSTMENT ACT

48 Stat. 337, 1264; 41 U. S. C. § 22

[PUBLIC—No. 86—73D CONGRESS]

[S. 2284]

AN ACT

Relating to contracts and agreements under the Agricultural Adjustment Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section 3741<sup>43</sup> of the Revised Statutes (U. S. C., title 41, sec. 22) and sections 114<sup>44</sup> and 115<sup>45</sup> of the Criminal Code of the United States (U. S. C., title 18, secs. 204 and 205) shall not apply to any contracts or agreements heretofore or hereafter entered into under the Agricultural Adjustment Act, the Federal Farm Loan Act, as amended, the Emergency Farm Mortgage Act of 1933, as amended, the Federal Farm Mortgage Corporation Act, as amended, the Farm Credit Act of 1933, as amended, and the Home Owners' Loan Act of 1933, as amended.*

Approved, January 25, 1934.

As amended by sec. 510 of the National Housing Act, Public, No. 479, 73d Congress, approved June 27, 1934.

<sup>43</sup> Sec. 3741. In every such contract or agreement to be made or entered into, or accepted by or on behalf of the United States, there shall be inserted an express condition that no member of (or delegate to) Congress shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

<sup>44</sup> Sec. 114. 35 Stat. 1109. Whoever, being elected or appointed a Member of or Delegate to Congress, or a Resident Commissioner, shall, after his election or appointment and either before or after he has qualified, and during his continuance in office, directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertake, execute, hold, or enjoy; in whole or in part, any contract or agreement, made or entered into in behalf of the United States by any officer or person authorized to make contracts on its behalf, shall be fined not more than \$3,000. All contracts or agreements made in violation of this section shall be void; and whenever any sum of money is advanced by the United States, in consideration of any such contract or agreement, it shall forthwith be repaid; and in case of failure or refusal to repay the same when demanded by the proper officer of the department under whose authority such contract or agreement shall have been made or entered into, suit shall at once be brought against the person as failing or refusing and his sureties, for the recovery of the money so advanced.

<sup>45</sup> Sec. 115. 35 Stat. 1109. Whoever, being an officer of the United States, shall on behalf of the United States, directly or indirectly, make or enter into any contract, bargain, or agreement, in writing or otherwise, with any Member of or Delegate to Congress, or any Resident Commissioner, after his election or appointment as such Member, Delegate, or Resident Commissioner, and either before or after he has qualified, and during his continuance in office, shall be fined not more than \$3,000.



# TARIFF ACT OF 1930

[PUBLIC—No. 361—71ST CONGRESS]

(Extracts)

## SEC. 313. DRAWBACK AND REFUNDS

46 Stat. 693, 47 Stat. 158; 19 U. S. C. § 1313

(a) **ARTICLES MADE FROM IMPORTED MERCHANDISE.**—Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or by-products produced from wheat imported after ninety days after the date of the enactment of this Act. Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(b) **SUBSTITUTION FOR DRAWBACK PURPOSES.**—If imported duty-paid sugar or non-ferrous metal, or ore containing non-ferrous metal, and duty free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed one year from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation (or shipment to the Philippine Islands) of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the sugar or non-ferrous metal, or ore containing non-ferrous metal, used therein been imported; but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

\* \* \* \* \*

(h) **TIME LIMITATION ON EXPORTATION.**—No drawback shall be allowed under the provisions of this section or of section 6 of the act entitled "An Act temporarily to provide revenue for the Philippine Islands, and for other purposes", approved March 8, 1902 (relating to drawback on shipments to the Philippine Islands), unless the completed article is exported, or shipped to the Philippine Islands, within three years after importation of the imported merchandise.

(i) **REGULATIONS.**—The Secretary of the Treasury is authorized to prescribe regulations governing (1) the identification of imported merchandise used in the manufacture or production of articles entitled to drawback of customs duties, the ascertainment of the quan-

tity of such merchandise used, of the time when such merchandise was received by the manufacturer or producer of the exported articles, and of the amount of duties paid thereon, the determination of the facts of the manufacture or production of such articles in the United States and their exportation therefrom, the time within which drawback entries on such articles shall be filed and completed to entitle such articles to drawback, and the payment of drawback due thereon; (2) the identification of merchandise withdrawn for consumption and returned to customs custody for exportation, the determination of the facts of nonconformity thereof to sample or specifications and of exportation thereof from the United States, and the payment of the drawback due thereon; (3) the determination and payment of drawback of internal-revenue tax on domestic alcohol, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as the Secretary of the Treasury deems necessary; (4) the remission of duties on imported salt used in curing fish, including the production of proof that the salt has been so used; and (5) the refunding of duties paid upon imported salt used in curing exported meats, including the production of proof that the salt has been so used; and designating the person to whom refund or payment of drawback shall be made.

(j) **SOURCE OF PAYMENT.**—Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico.

**SEC. 317. TOBACCO PRODUCTS—EXPORTATION FREE OF DUTY OR INTERNAL-REVENUE TAX**

46 Stat. 696; 19 U. S. C. § 1317

The shipment or delivery of manufactured tobacco, snuff, cigars, or cigarettes, for consumption beyond the jurisdiction of the internal-revenue laws of the United States, as defined by section 3448 of the Revised Statutes, shall be deemed exportation within the meaning of the customs and internal-revenue laws applicable to the exportation of such articles without payment of duty or internal-revenue tax.

**PARAGRAPH 501. SUGAR—RATE OF DUTY**

46 Stat. 630; 19 U. S. C. § 1001

Sugars, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above seventy-five sugar degrees, and all mixtures containing sugar and water, testing by the polariscope above fifty sugar degrees not above seventy-five sugar degrees, 1.7125 cents per pound, and for each additional sugar degree shown by the polariscopic test, three hundred and seventy-five ten-thousandths of 1 cent per pound additional, and fractions of a degree in proportion.

RECONSTRUCTION FINANCE CORPORATION ACT,  
AS AMENDED <sup>46</sup>

[PUBLIC—No. 2—72D CONGRESS]

(USE OF SPECIAL AGRICULTURAL CREDIT CORPORATIONS IN RELATION TO  
MARKETING PLANS SET UP UNDER MARKETING AGREEMENTS)

(Extracts)

Sec. 5, 47 Stat. 6, 48 Stat. 121, 122, 141; 15 U. S. C. § 605

To aid in financing agriculture, commerce, and industry, including facilitating the exportation of agricultural and other products, the corporation is authorized and empowered to make loans, upon such terms and conditions not inconsistent with this Act as it may determine, to any bank, savings bank, trust company, building and loan association, insurance company, mortgage-loan company, credit union, Federal land bank, joint-stock land bank, Federal intermediate credit bank, agricultural credit corporation, livestock credit corporation, organized under the laws of any State or of the United States, including loans secured by the assets of any bank, savings bank, or building and loan association that is closed, or in process of liquidation to aid in the reorganization or liquidation of such banks or building and loan associations, upon application of the receiver or liquidating agent of such bank or building and loan association, and any receiver of any national bank is hereby authorized to contract for such loans and to pledge any assets of the bank for securing the same.

All loans made under the foregoing provisions shall be fully and adequately secured. The corporation, under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for such loans. Such loans may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose, or otherwise in such form and in such amount and at such interest or discount rates as the corporation may approve: *Provided*, That no loans or advances shall be made upon foreign securities or foreign acceptances as collateral or for the purpose of assisting in the carrying or liquidation of such foreign securities and foreign acceptances. In no case shall the aggregate amount of advances made under this section to any one corporation and its subsidiary or affiliated organizations exceed at any one time 2½ per centum of (1) the authorized capital stock of the Reconstruction Finance Corporation plus (2) the aggregate amount of bonds of the corporation authorized to be outstanding when the capital stock is fully subscribed: *Provided*, That such limitation shall not apply to advances to receivers or other liquidating agents of closed banks when made for the purpose of liquidation or reorganization.

<sup>46</sup> Throughout the text of this Act black face type is used to indicate matter added by Public No. 1, 74th Congress, approved January 31, 1935, 49 Stat. 1, and black brackets are used to indicate the matter deleted.



Each such loan may be made for a period not exceeding three years, and the corporation may from time to time extend the time of payment of any such loan, through renewal, substitution of new obligations, or otherwise, but the time for such payment shall not be extended beyond five years from the date upon which such loan was made originally. The corporation may make loans under this section at any time prior to the expiration of one year from the date of the enactment hereof; and the President may from time to time postpone such date of expiration for such additional period or periods as he may deem necessary, not to exceed two years from the date of the enactment hereof. [Within the foregoing limitations of this section, the corporation may also, upon the approval of the Interstate Commerce Commission, make loans to aid in the temporary financing of railroads and railways engaged in interstate commerce, to railroads and railways in process of construction, and to receivers of such railroads and railways, when in the opinion of the board of directors of the corporation such railroads or railways are unable to obtain funds upon reasonable terms through banking channels or from the general public and the corporation will be adequately secured:] **Within the foregoing limitations of this section, the Corporation, notwithstanding any limitation of law as to maturity, with the approval of the Interstate Commerce Commission, including approval of the price to be paid, may, to aid in the financing, reorganization, consolidation, maintenance, or construction thereof, purchase for itself, or for account of a railroad obligated thereon, the obligations of railroads engaged in interstate commerce, including equipment trust certificates, or guarantee the payment of the principal of, and/or interest on, such obligations, including equipment trust certificates, or, when, in the opinion of the Corporation, funds are not available on reasonable terms through private channels, make loans, upon full and adequate security, to such railroads or to receivers or trustees thereof for the purposes aforesaid: Provided, That in the case of loans to or the purchase or guarantee of obligations, including equipment trust certificates, of railroads not in receivership or trusteeship, the Interstate Commerce Commission shall, in connection with its approval thereof, also certify that such railroad, on the basis of present and prospective earnings, may reasonably be expected to meet its fixed charges, without a reduction thereof through judicial reorganization, except that such certificate shall not be required in case of such loans made for the maintenance of, or purchase of equipment for, such railroads: And provided further, That for the purpose of determining the general funds of the Corporation available for further loans or commitments, such guaranties shall, to the extent of the principal amount of the obligations guaranteed, be interpreted as loans or commitments for loans: Provided further, That the total amount of loans and commitments to railroads, receivers, and trustees, and purchases and guaranties of obligations of railroads, under this paragraph, as amended, shall not exceed at any one time \$350,000,000, in addition to loans and commitments made prior to the date of enactment of this Act and renewals of loans and commitments so made: *Provided, That no fee or commission shall be paid by any applicant for a loan under the provisions hereof in connection with any such application or any loan made or to be made hereunder, and the agreement to pay***

or payment of any such fee or commission shall be unlawful. Any such railroad may obligate itself in such form as shall be prescribed and otherwise comply with the requirements of the Interstate Commerce Commission and the corporation with respect to the deposit or assignment of security hereunder, without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification, other than such as may be imposed by the Interstate Commerce Commission and the corporation under the provisions of this section [:*Provided further*, That the Corporation may make said loans to trustees of railroads which proceed to reorganize under section 77 of the Bankruptcy Act of March 3, 1933.].

The Reconstruction Finance Corporation is further authorized and empowered to make loans if adequately secured to any State insurance fund established or created by the laws of any State for the purpose of paying or insuring payment of compensation to injured workmen and those disabled as a result of disease contracted in the course of their employment, or to their dependents. As used in this paragraph, the term "State" includes the several States and Alaska, Hawaii, and Puerto Rico.

The Reconstruction Finance Corporation is further authorized and empowered to make loans if adequately secured to any fund created by any State for the purpose of insuring the repayment of deposits of public moneys of such State or any of its political subdivisions in banks or depositories qualified under the law of such State to receive such deposits. Such loans may be made at any time prior to January 23, 1934, and upon such terms and conditions as the corporation may prescribe; except that any fund which receives a loan under this paragraph shall be required to assign to the corporation, to the extent of such loan, all amounts which may be received by such fund as dividends or otherwise from the liquidation of any such bank or depository in which deposits of such public moneys were made. As used in this paragraph, the term "State" includes the several States and Alaska, Hawaii, and Puerto Rico.

Sec. 9, 47 Stat. 9, 715; 15 U. S. C. § 609

The corporation is authorized and empowered, with the approval of the Secretary of the Treasury, to issue, and to have outstanding at any one time in an amount aggregating not more than three times its subscribed capital, its notes, debentures, bonds, or other such obligations; such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations, and to bear such rate or rates of interest as may be determined by the corporation: *Provided*, That the corporation, with the approval of the Secretary of the Treasury, may sell on a discount basis short-term obligations payable at maturity without interest. The notes, debentures, bonds, and other obligations of the corporation may be secured by assets of the corporation in such manner as shall be prescribed by its board of directors: *Provided*, That the aggregate of all obligations issued under this section shall not exceed three times the amount of the subscribed capital stock. Such obligations



may be issued in payment of any loan authorized by this Act or may be offered for sale at such price or prices as the corporation may determine with the approval of the Secretary of the Treasury. The said obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof. In the event that the corporation shall be unable to pay upon demand, when due, the principal of or interest on notes, debentures, bonds, or other such obligations issued by it, the Secretary of the Treasury shall pay the amount thereof, which is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, and thereupon to the extent of the amounts so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such notes, debentures, bonds, or other obligations. The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include any purchases of the corporation's obligations hereunder. The Secretary of the Treasury may, at any time, sell any of the obligations of the corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the corporation shall be treated as public-debt transactions of the United States. Such obligations shall not be eligible for discount or purchase by any Federal reserve bank. The Secretary of the Treasury, at the request of the Reconstruction Finance Corporation, is authorized to market for the corporation its notes, debentures, bonds, and other such obligations, using therefor all the facilities of the Treasury Department now authorized by law for the marketing of obligations of the United States. The proceeds of the obligations of the corporation so marketed shall be deposited in the same manner as proceeds derived from the sale of obligations of the United States, and the amount thereof shall be credited to the corporation on the books of the Treasury.

[PUBLIC NO. 1—74TH CONGRESS]

49 Stat. 1

(Extract)

**Sec. 3.** Notwithstanding any other provision of law limiting the maturity of obligations taken by it to shorter periods, the Reconstruction Finance Corporation may make loans or advances or renewals or extensions thereof to authorized borrowers or by other suitable agreement permit them to run so as to mature at such time or times as the Corporation may determine, not later than January 31, 1945: *Provided*, That in respect of loans or renewals or extensions of loans or purchases of obligations under section 5 of the Reconstruction Finance Corporation Act, as heretofore and herein amended (U. S. C., Supp. VII, title 15, ch. 14), to or of railroads, the Corporation may require as a condition of making any such



loan or renewal or extension for a period longer than five years, or purchasing any such obligation maturing later than five years from the date of purchase by the Corporation, that such arrangements be made for the reduction or amortization of the indebtedness of the railroad, either in whole or in part, as may be approved by the Corporation after the prior approval of the Interstate Commerce Commission.

\* \* \* \* \*

Approved, January 31, 1935.

## NAVAL STORES ACT

[PUBLIC—No. 478—67TH CONGRESS]

42 Stat. 1435; 7 U. S. C. A. § 92

(Extract)

SEC. 2. That, when used in this Act—

- (a) "Naval stores" means spirits of turpentine and rosin.
- (b) "Spirits of turpentine" includes gum spirits of turpentine and wood turpentine.
- (c) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living tree.
- (d) "Wood turpentine" includes steam distilled wood turpentine and destructively distilled wood turpentine.
- (e) "Steam distilled wood turpentine" means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.
- (f) "Destructively distilled wood turpentine" means wood turpentine obtained in the destructive distillation of the wood.
- (g) "Rosin" includes gum rosin and wood rosin.
- (h) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.
- (i) "Wood rosin" means rosin remaining after the distillation of steam distilled wood turpentine.

\* \* \* \* \*

Approved, March 3, 1923.

## FEDERAL TRADE COMMISSION ACT

[PUBLIC—No. 203—63D CONGRESS]

38 Stat. 722-724; 15 U. S. C. §§ 48-50

(Extracts)

SEC. 8. That the several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of this Act, and shall detail from time to time such officials and employees to the commission as he may direct.

SEC. 9. That for the purposes of this Act the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this Act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be



compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: *Provided*, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 10. That any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than \$1,000 nor more than \$5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by this Act to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of \$100 for each and every day of the continuance of

such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various district attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court.

\* \* \* \* \*

Approved, September 26, 1914.

# NATIONAL INDUSTRIAL RECOVERY ACT

[PUBLIC—No. 67—73D CONGRESS]

48 Stat. 210; 40 U. S. C. § 411

(AUTHORIZATION FOR ALLOCATION OF \$100,000,000)

(Extract)

SEC. 220. For the purposes of this Act, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$3,300,000,000. The President is authorized to allocate so much of said sum, not in excess of \$100,000,000, as he may determine to be necessary for expenditures in carrying out the Agricultural Adjustment Act and the purposes, powers, and functions heretofore and hereafter conferred upon the Farm Credit Administration.

\* \* \* \* \*

Approved, June 16, 1933.

## FOURTH DEFICIENCY ACT, FISCAL YEAR 1933

[PUBLIC—No. 77—73D CONGRESS]

48 Stat. 275

(APPROPRIATION FOR NATIONAL INDUSTRIAL RECOVERY ACT AND OTHER PURPOSES)

(Extract)

NATIONAL INDUSTRIAL RECOVERY AND TENNESSEE VALLEY AUTHORITY

For the purpose of carrying into effect the provisions of the Act entitled "An Act to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes", approved June 16, 1933, and also for the purpose of carrying into effect the provisions of the Act entitled "An Act for the relief of unemployment through the performance of useful public work, and for other purposes", approved March 31, 1933, and for each and every object thereof, to be expended in the discretion and under the direction of the President, to be immediately available, and except as hereinafter provided to remain available until June 30, 1935, \$3,300,000,000; of which not to exceed \$50,000,000 shall be available to the board of directors of the Tennessee Valley Authority, and to remain available until expended, for the purpose of carrying out the provisions of the Act of Congress entitled "The Tennessee Valley Authority Act of 1933", approved May 18, 1933, including the acquisition of necessary land, the clearing



FOURTH DEFICIENCY ACT, 1935

of such land, relocation of highways, and the construction and/or purchase of transmission lines and other facilities, the construction of the Cove Creek Dam and powerhouse and all other necessary works authorized by said Act, and for printing and binding, law books, books of reference, newspapers, periodicals, purchase, maintenance and operation of passenger-carrying vehicles, rents in the District of Columbia and elsewhere and all necessary salaries and expenses connected with the organization, operation, and investigations of the Tennessee Valley Authority, including reimbursements for any expenses prior to the enactment of this appropriation incurred at the direction of the President.

\* \* \* \* \*

Approved, June 16, 1933.

# APPROPRIATION FOR COTTON, CATTLE, DAIRY PRODUCTS, ETC.

48 Stat. 805

[PUBLIC RESOLUTION—No. 27—73D CONGRESS]

[H. J. Res. 345]

(Extract)

## JOINT RESOLUTION

To provide funds to enable the Secretary of Agriculture to carry out the purposes of the Acts approved April 21, 1934, and April 7, 1934, relating, respectively, to cotton and to cattle and dairy products, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That to enable the Secretary of Agriculture to carry out the purposes of the Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes" (Public, Numbered 169, Seventy-third Congress), approved April 21, 1934, there is hereby appropriated and made available, pursuant to the authorizations contained in the said Act, the funds available for carrying into effect the provisions of the Agricultural Adjustment Act, as amended, which shall be available for administrative and other expenses, and in addition thereto, the proceeds derived from the tax levied under said Act of April 21, 1934, are hereby appropriated and made available for the purposes for which appropriations are authorized to be made under the provisions of Section 16 (c) of said Act: *Provided*, That the Secretary of Agriculture shall transfer to the Treasury Department and is authorized to transfer to other agencies out of funds hereby made available for carrying out said Act of April 21, 1934, such sums as are required to carry out the provisions of said Act, including administrative expenses and refunds of taxes.

To enable the Secretary of Agriculture to carry out the purposes of the Act entitled "An Act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes" (Public, Numbered 142, Seventy-third Congress), approved April 7, 1934, there are hereby appropriated, out of any money in the Treasury not otherwise appropriated, pursuant to the authorizations contained in sections 2 and 6 of said Act of April 7, 1934, \$100,000,000 for the purposes of the Agricultural Adjustment Act, as amended, and \$50,000,000 for the purposes specified in section 6 of said Act of April 7, 1934, including the employment of persons and means in the District of Columbia and elsewhere and other necessary expenses; in all, \$150,000,000, to remain available until December 31, 1935.

\* \* \* \* \*  
Approved, May 25, 1934.

[PUBLIC RESOLUTION—No. 11—74TH CONGRESS]

[H. J. Res. 117]

49 Stat. 115

JOINT RESOLUTION

Making appropriations for relief purposes and administration of the Agricultural Adjustment Act

(Extracts)

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to provide relief, work relief and to increase employment by providing for useful projects, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used in the discretion and under the direction of the President, to be immediately available and to remain available until June 30, 1937, the sum of \$4,000,000,000, together with the separate funds established for particular areas by proclamation of the President pursuant to section 15 (f) of the Agricultural Adjustment Act (but any amounts thereof shall be available for use only for the area for which the fund was established); not exceeding \$500,000,000 in the aggregate of any savings or unexpended balances in funds of the Reconstruction Finance Corporation; and not exceeding a total of \$380,000,000 of such unexpended balances as the President may determine are not required for the purposes for which authorized, of the following appropriations, namely:

\* \* \* \* \*

Funds made available by this joint resolution may be used, in the discretion of the President, for the purpose of making loans to finance, in whole or in part, the purchase of farm lands and necessary equipment by farmers, farm tenants, croppers, or farm laborers. Such loans shall be made on such terms as the President shall prescribe and shall be repaid in equal annual installments, or in such other manner as the President may determine.

Funds made available by this joint resolution may be used, in the discretion of the President for the administration of the Agricultural Adjustment Act, as amended, during the period of twelve months after the effective date of this joint resolution.

\* \* \* \* \*

Approved, April 8, 1935, 4. p m.



# CROP PRODUCTION LOANS, FEED FOR LIVESTOCK IN DROUGHT AND STORM-STRICKEN AREAS

48 Stat. 354

[PUBLIC—No. 97—73D CONGRESS]

(Extract)

SEC. 2. (c) No loan shall be made under this Act to any applicant who shall not have first established to the satisfaction of the proper officer or employee of the Farm Credit Administration, under such regulations as the Governor may prescribe (1) that such applicant is unable to procure from other sources a loan in an amount reasonably adequate to meet his needs for the purposes for which loans may be made under this Act; and (2) that such applicant is cooperating directly in the crop production control program of the Agricultural Adjustment Administration or is not proposing to increase his 1934 production of basic agricultural commodities in a manner detrimental to the success of such program.

\* \* \* \* \*

Approved, February 23, 1934.

To provide for loans to farmers for crop production and harvesting during the year 1935, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Governor of the Farm Credit Administration, hereinafter in this Act referred to as the "Governor", is hereby authorized to make loans to farmers in the United States (including Alaska, Hawaii, and Puerto Rico), during the year 1935, for fallowing, for the production of crops, for harvesting of crops, and for feed for livestock, or for any of such purposes. Such loans shall be made and collected through such agencies, upon such terms and conditions, and subject to such regulations, as the Governor shall prescribe.

SEC. 2. (a) There shall be required as security for any such loan a first lien, or an agreement to give a first lien, upon all crops of which the production or harvesting, or both, is to be financed, in whole or in part, with the proceeds of such loan; or, in case of any loan for the purchase or production of feed for livestock, a first lien upon the livestock to be fed. Fees for recording, filing, and registering shall not exceed 75 cents per loan and may be deducted from the proceeds of the loan. Each loan shall bear interest at the rate of 5½ per centum per annum. For the purpose of carrying out the provisions of this Act and collecting loans made under other Acts of the same general character, including loans made by the Governor with funds appropriated by the Emergency Appropriation Act, fiscal year 1935, the Governor may use the facilities and services of the Farm Credit Administration and any institution operating under its supervision, or of any officer or officers thereof, and may pay for such services and the use of such facilities from the funds made available for the payment of necessary administrative expenses; and such institutions are hereby expressly empowered to enter into agreements with the Governor for the accomplishment of such purposes.

(b) The amount which may be loaned to any borrower pursuant to this Act shall not exceed \$500: *Provided, however,* That in any area certified by the President of the United States to the Governor as a distressed emergency area, the Governor may make loans without regard to the foregoing limitations as to amount, under such regulations and with such maturities as he may prescribe therefor.

(c) No loan shall be made under this Act to any applicant who shall not have first established to the satisfaction of the proper officer or employee of the Farm Credit Administration, under such regulations as the Governor may prescribe: (1) that such applicant is unable to procure from other sources a loan in an amount reasonably adequate to meet his needs for the purposes for which loans may be made under this Act; and (2) that such applicant is cooperating directly in the crop production control program of the Agricultural Adjustment Administration or is not proposing to increase his 1935 production of

basic agricultural commodities in a manner detrimental to the success of such program.

SEC. 3. (a) The moneys authorized to be loaned by the Governor under this Act are declared to be impressed with a trust to accomplish the purposes provided for by this Act (namely, for fallowing, production, harvesting, or feed), which trust shall continue until the moneys loaned pursuant to this Act have been used by the borrower for such purposes.

(b) It shall be unlawful for any person to make any material false representation for the purpose of obtaining, or assisting another to obtain, a loan under the provisions of this Act; or willfully to dispose of, or assist in disposing of, except for the account of the Governor, any crops or other property upon which there exists a lien securing a loan made under the provisions of this Act.

(c) It shall be unlawful for any person to charge a fee for the purpose of preparing or assisting in the preparation of any papers of an applicant for a loan under the provisions of this Act.

(d) Any person violating any of the provisions of this Act shall, upon conviction thereof, be punished by a fine of not more than \$1,000, or by imprisonment for not more than six months, or both.

SEC. 4. The Governor shall have power, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States, to employ and fix the compensation and duties of such agents, officers, and employees as may be necessary to carry out the purposes of this Act; but the compensation of such officers and employees shall correspond, so far as the Governor deems practicable, to the rates established by the Classification Act of 1923, as amended.

SEC. 5. (a) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of not to exceed \$60,000,000, or so much thereof as may be necessary, to carry out the provisions of this Act. Any part of such sum may be made up as follows: All unobligated balances of appropriations and funds available thereunder to enable the Secretary of Agriculture or the Governor to make advances or loans under the following Acts and Resolutions, and all repayments of such advances and loans and interest: March 3, 1921 (41 Stat. 1347); March 20, 1922 (42 Stat. 467); April 26, 1924 (43 Stat. 110); February 28, 1927 (44 Stat. 1251); February 25, 1929 (45 Stat. 1306), as amended May 17, 1929 (46 Stat. 3); March 3, 1930 (46 Stat. 78, 79); December 20, 1930 (46 Stat. 1032), as amended February 14, 1931 (46 Stat. 1160); February 23, 1931 (46 Stat. 1276); March 3, 1932 (47 Stat. 60); February 4, 1933 (47 Stat. 795); February 23, 1934 (48 Stat. 354); and June 19, 1934 (48 Stat. 1021).

(b) The moneys made available under subsection (a), and all collections of both principal and interest on loans made under this Act, may be used by the Governor for making loans under this Act and for all necessary administrative expenses in making and collecting such loans.

(c) Expenditures for printing and binding necessary in carrying out the provisions of this Act may be made without regard to the provisions of section 3709 of the Revised Statutes.

Approved, February 20, 1935.



DEPARTMENT OF AGRICULTURE APPROPRIATION ACT,  
1936

[PUBLIC—No. 62—74TH CONGRESS, APPROVED, MAY 17, 1935]

(Extracts)

49 Stat. 280

INTERNATIONAL PRODUCTION CONTROL COMMITTEES

During the fiscal year 1936 the Secretary of Agriculture may expend not to exceed \$10,000, from the funds available for carrying into effect the Agricultural Adjustment Act approved May 12, 1933 (48 Stat., p. 38), the share of the United States as a member of the International Wheat Advisory Committee or like events or bodies concerned with the reduction of agricultural surpluses or other objectives of the Agricultural Adjustment Act, together with traveling and all other necessary expenses relating thereto.

\* \* \* \* \*

49 Stat. 281

EXTENSION OF TIME FOR PAYMENT OF COTTON PROCESSING TAX

SEC. 2. The processing tax authorized by Public Act numbered 10, Seventy-third Congress (48 Stat. 31), when levied upon cotton, shall be payable ninety days after the filing of the processor's report: *Provided, That*, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed six months from the date of the filing of the report.

\* \* \* \* \*

Approved, May 17, 1935.

## DEFINITION OF LARGE COTTON BAGS

CERTIFICATE OF SECRETARY OF AGRICULTURE

CERTIFICATE NO. 1.

(Extract)

\* \* \* \* \*

Large cotton bags are bags having a cut area (area of fabric before folding or sewing) of 950 square inches, or over, and a weight basis of 380 pounds, or over, cotton content per thousand bags; or bags having a cut area of 1,475 square inches, or over, and a weight basis of 170 pounds, or over, cotton content per thousand bags; or bags having intermediate cut areas and/or weights; provided, that for each per pound decrease in the basis weight from 380 pounds per thousand bags, the cut area per bag shall be at least  $2\frac{1}{2}$  square inches greater than 950 square inches. This definition does not include large cotton bags or tubes manufactured, fabricated, and designed in form for cutting or dividing into smaller bags with specifications below those above set out.

\* \* \* \* \*

Issued June 12, 1934.

## FLOOR STOCKS TAX, COTTON MACHINERY BELTING

48 Stat. 1223; 7 U. S. C. §§ 621, 622

[PUBLIC—No. 470—73D CONGRESS]

[S. 3419]

AN ACT

To exempt articles of machinery belting from the tax on floor stocks imposed by the Agricultural Adjustment Act.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of section 16 of the Agricultural Adjustment Act, as amended, shall not apply to articles of machinery belting processed wholly or in chief value from cotton, if such processing was completed prior to January 1, 1930.

SEC. 2. Any tax which has been assessed or paid under such section on any such article prior to the enactment of this Act shall be credited or refunded to the taxpayer, or abated if remaining unpaid: *Provided*, That claim therefor must be filed within three months after the date of enactment of this Act: *Provided further*, That no such credit, refund, or abatement shall be made with respect to any such article which was disposed of by the taxpayer prior to the filing of the claim therefor.

Approved, June 26, 1934.



## CLASSIFICATION OF PRODUCTS PROCESSED FROM WHEAT

WHEAT REGULATIONS, SERIES 1, SUPPLEMENT 1, DEPARTMENT OF  
AGRICULTURE

(Extract)

Products of first domestic processing:

1. Flour:

- (a) Whole wheat and graham.
- (b) All flour except whole wheat and graham.
- (c) Semolina and farina.
- (d) Bran, shorts, middlings, red dog, and all of the product of wheat (other than whole wheat and graham flour) resulting from the commercial milling thereof which contains more than 1 percent of ash (in the case of such product of durum wheat, more than 1.2 percent of ash).

2. Prepared flour:

- (a) Doughnut.
- (b) Biscuit.
- (c) Pancake.
- (d) Pie crust.

3. Cereal preparations made chiefly from wheat:

- (a) Whole wheat type, including those consisting chiefly of whole wheat.
- (b) All others except those consisting chiefly of bran.

Issued August, 1933.

## REVENUE ACT OF 1926

[PUBLIC—No. 20—69TH CONGRESS]

(Extracts)

### PENALTIES, RETURNS, AND PAYMENT OF TAXES

44 Stat. 99-100; 26 U. S. C. §§ 920, 922

#### SEC. 802. Whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

(b) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(c) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section 804;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than \$100 for each offense.

44 Stat. 100; 26 U. S. C. § 923

#### SEC. 803. Whoever—

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) Willfully removes, or alters the cancellation or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

REVENUE ACT OF 1926

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

\* \* \* \* \*

44 Stat. 100; 26 U. S. C. § 908 (2)

SEC. 805. (b) All internal revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

\* \* \* \* \*

44 Stat. 116; 26 U. S. C. §§ 856, 921, 1693

SEC. 1114. (a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this Act to collect, account for and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by Titles IV, V, VI, VII, VIII, and IX, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax



evaded, or not paid, collected or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

44 Stat. 121; 26 U. S. C. § 1125

SEC. 1121. Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the taxes imposed under the provisions of Title IV or VI or of section 903 shall not apply in respect of articles sold or leased for export or for shipment to a possession of the United States and in due course so exported or shipped. Under such rules and regulations the amount of any internal-revenue tax erroneously or illegally collected in respect of such articles so exported or shipped may be refunded to the exporter or shipper of the articles, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

## REVENUE ACT OF 1928

[PUBLIC—No. 562—70TH CONGRESS]

(Extract)

45 Stat. 876; 26 U. S. C. § 1671

### SEC. 614. INTEREST ON OVERPAYMENTS

(a) Interest shall be allowed and paid upon any overpayment in respect of any internal-revenue tax, at the rate of 6 per centum per annum, as follows:

(1) In the case of a credit, from the date of the overpayment to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment of a tax imposed by the Revenue Act of 1921 or any subsequent revenue Act, then to the date of the assessment of that amount.

(2) In the case of a refund, from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, such date to be determined by the Commissioner.

(b) As used in this section the term "additional assessment" means a further assessment for a tax of the same character previously paid in part, and includes the assessment of a deficiency of any income or estate tax imposed by the Revenue Act of 1924 or by any subsequent Revenue Act.

(c) Section 1116 of the Revenue Act of 1926 is repealed.

(d) Subsections (a), (b), and (c) shall take effect on the expiration of thirty days after the enactment of this Act, and shall be applicable to any credit taken or refund paid after the expiration of such period, even though allowed prior thereto.

## REVENUE ACT OF 1932

(Extract)

[PUBLIC—No. 154—72D CONGRESS]

47 Stat. 264; 26 U. S. C. note at end of c. 20

### SEC. 614. TAX ON CHEWING GUM

There is hereby imposed upon chewing gum or substitutes therefor sold by the manufacturer, producer, or importer, a tax equivalent to 2 per centum of the price for which so sold.

\* \* \* \* \*

47 Stat. 269; 26 U. S. C. note at end of c. 20.

### SEC. 626. RETURN AND PAYMENT OF MANUFACTURERS' TAXES

(a) Every person liable for any tax imposed by this title other than taxes on importation (except tax under section 615, relating to tax on soft drinks) shall make monthly returns under oath in duplicate and pay the taxes imposed by this title to the collector for the district in which is located his principal place of business or, if he has no principal place of business in the United States, then to the collector at Baltimore, Maryland. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

(b) The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.



## PROVISIONS OF REVISED STATUTES RELATING TO PENALTIES, RETURNS, AND PAYMENT OF TAXES

SEC. 3174. (26 U. S. C. § 1515 (d).) Such summons shall in all cases be served by a deputy collector of the district where the person to whom it is directed may be found, by an attested copy delivered to such person in hand, or left at his last and usual place of abode, allowing such person one day for each twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by such deputy shall be evidence of the facts it states on the hearing of an application for an attachment. When the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty.

SEC. 3175. (26 U. S. C. § 1515 (e).) Whenever any person summoned under the two preceding sections neglects or refuses to obey such summons, or to give testimony, or to answer interrogatories as required, the collectors may apply to the judge of the district court or to a commissioner of the circuit court of the United States for the district within which the person so summoned resides for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper not inconsistent with existing laws for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

SEC. 3176. (44 Stat. 112; 26 U. S. C. § 1512.) If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be *prima facie* good and sufficient for all legal purposes.

If the failure to file a return (other than a return under Title II of the Revenue Act of 1924 or Title II of the Revenue Act of 1926) or a list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper.

## PROVISIONS RELATING TO PENALTIES, ETC.

The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SEC. 3184. (26 U. S. C. §1545.) Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month.

SEC. 3226. (47 Stat. 286; 26 U. S. C. §1672.) No suit or proceeding shall be maintained in any court for the recovery of an internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of mailing by registered mail by the Commissioner to the taxpayer of a notice of the disallowance of the part of the claim to which such suit or proceeding relates.

(b) Suits or proceedings instituted before the date of the enactment of this Act shall not be affected by the amendment made by subsection (a) of this section to section 3226 of the Revised Statutes. In the case of suits or proceedings instituted on or after the date of the enactment of this Act where the part of the claim to which such suit or proceeding relates was disallowed before the date of the enactment of this Act, the statute of limitations shall be the same as provided by such section 3226 before its amendment by subsection (a) of this section.

BANKHEAD COTTON ACT OF 1934, AS AMENDED, AT THE  
CLOSE OF THE FIRST SESSION OF THE 74TH CONGRESS,  
AUGUST 26, 1935<sup>47</sup>

AN ACT

To place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

DECLARATION OF POLICY

That in order to relieve the present acute economic emergency in that part of the agricultural industry devoted to cotton production and marketing by diminishing the disparity between prices paid to cotton producers and persons engaged in cotton marketing and prices of other commodities and by restoring purchasing power to such producers and persons so that the restoration of the normal exchange in interstate and foreign commerce of all commodities may be fostered, and to raise revenue to enable the payment of additional benefits to cotton producers under the Agricultural Adjustment Act—

It is hereby declared to be the policy of Congress to promote the orderly marketing of cotton in interstate and foreign commerce; to enable producers of such commodity to stabilize their markets against undue and excessive fluctuations, and to preserve advantageous markets for such commodity, and to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, and to more effectively balance production and consumption of cotton.

PERIOD OF APPLICABILITY

SEC. 2. The provisions of this Act shall be effective only with respect to the crop years 1934–1935, but if the President finds that the economic emergency in cotton production and marketing will continue or is likely to continue to exist so that the application of this Act with respect to the crop year 1935–1936 **or the crop year 1936–1937 or the crop year 1937–1938** is imperative in order to carry out the policy declared in section 1, he shall so proclaim, and this Act shall be effective with respect to the crop year 1935–1936 **or the crop year 1936–1937 or the crop year 1937–1938**. If at any time prior to the end of the crop year 1935–1936 **or the crop year 1936–1937 or the crop year 1937–1938**, the President finds that the economic

<sup>47</sup> Throughout the text of this Act, italics and black face type are used to indicate matter added by the 73rd and 74th Congress, respectively, by way of amendment to the Bankhead Cotton Act of 1934, Public No. 169, 73rd Congress, 48 Stat. 598; 7 U. S. C. § 701 et seq.



emergency in cotton production and marketing has ceased to exist, he shall so proclaim, and no tax under this Act shall be levied with respect to cotton harvested after the effective date of such proclamation.

The matter in black face type was added by sec. 39 (a) of Public No. 320, 74th Congress, approved August 24, 1935.

SEC. 3. (a) When the Secretary of Agriculture finds, for the crop year 1935-1936, or the crop year 1936-1937 or the crop year 1937-1938 if the provisions of this Act are effective for such crop year, that two-thirds of the persons who have the legal or equitable right as owner, tenant, share-cropper, or otherwise to produce cotton on any cotton farm, or part thereof, in the United States for such crop year favor a levy of a tax on the ginning of cotton in excess of an allotment made to meet the probable market requirements and determines that such a tax is required to carry out the policy declared in section 1, the Secretary shall ascertain from an investigation of the available supply of cotton and the probable market requirements the quantity of cotton that should be allotted, in accordance with the policy declared in section 1, for marketing in the channels of interstate and foreign commerce, from production of cotton during the succeeding cotton crop year, exempt from the payment of taxes thereon. **In ascertaining the sentiment of the producers with respect to the crop year 1936-1937 or the crop year 1937-1938, the vote in favor of the compulsory tax features of this Act, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection.**

The matter in black face type was added by sec. 39 of Public No. 320, 74th Congress, approved August 24, 1935.

(b) The allotment so ascertained shall be proclaimed by the Secretary of Agriculture at least sixty days prior to the beginning of such succeeding crop year and shall be apportioned by him as herein provided.

(c) For the crop year 1934-1935 ten million bales is hereby fixed as the maximum amount of cotton of the crop harvested in the crop year 1934-1935, that may be marketed exempt from payment of the tax herein levied. Except as provided in section 2, the allotment plan and the tax is hereby declared to be in effect for the crop year 1934-1935.

#### TAX AND EXEMPTIONS

SEC. 4. (a) There is hereby levied and assessed on the ginning of cotton hereafter harvested during a crop year with respect to which this Act is in effect, a tax at the rate per pound of the lint cotton produced from ginning, of 50 per centum of the average central market price per pound of lint cotton, but in no event less than 5 cents per pound. If the cotton was harvested during a crop year with respect to which the tax is in effect, the tax shall apply even if the ginning occurs after the expiration of such crop year.

(b) The average central market price, per pound of lint cotton, shall be the average price per pound of basis seven-eighths-inch middling spot cotton on the ten spot cotton markets (designated by the Secretary of Agriculture) as determined and proclaimed from

time to time by the Secretary of Agriculture. The average central market price determined and proclaimed shall be the base for determining the rate of the tax until a different average central market price for lint cotton is determined and proclaimed by the Secretary of Agriculture.

(c) Every person ginning any cotton subject to tax under this Act (whether as agent of the owner or otherwise) and every other person liable for tax under this Act shall make monthly returns under oath in duplicate and pay the taxes imposed by this Act to the collector for the district in which the ginning is done, or to such other person as such collector may direct. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary of the Treasury, may by regulations prescribe. The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of 1 per centum a month from the time when the tax became due until paid.

(d) When the Secretary of Agriculture does not proclaim an allotment of cotton for a crop year as provided in section 3 of this Act, the tax shall not apply with respect to cotton harvested during such crop year but shall apply to cotton harvested during the next crop year for which, with the approval of the President, the Secretary makes an allotment under such section.

(e) No tax shall be imposed under this Act with respect to—

(1) Cotton harvested by any publicly owned experimental station or agricultural laboratory.

(2) An amount of cotton harvested in any crop year from each farm equal to its allotment.

(3) Cotton harvested prior to the crop year 1934-1935.

(4) Cotton having a staple of one and one half inches in length or longer.

(f) The tax shall not be collected upon the ginning of cotton which is to be stored by the producer thereof either on the farm or at such other place as may be permitted by regulations prescribed by the Secretary of Agriculture and the Secretary of the Treasury. In such cases, the payment of the tax shall be postponed, but shall be paid at the time when bale tags are secured for such cotton. Bale tags may be secured for any of such cotton at any time after ginning (1) upon the payment to such person as the Commissioner may direct, of the amount of tax which would have been payable at the time of ginning, or (2) upon the surrender of certificates of exemption covering an amount of cotton not less than the amount of such cotton. Until bale tags are secured for such cotton, such cotton shall be subject to a lien in favor of the United States for the amount of the tax payable with respect to the ginning of such cotton. The right to postponement of the payment of the tax under this subsection shall be established in accordance with such regulations as the Secretary of Agriculture and the Secretary of the Treasury may prescribe. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe regulations providing for stamping the

containers of such cotton so as to indicate the time of ginning and the amount of tax payable with respect thereto.

(g) The right to exemption under paragraph (2) of subsection (e) shall be evidenced by a certificate of exemption issued as herein provided, which certificate of exemption shall be conclusive proof of the right to such exemption.

(h) **The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this Act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household.**

Subsec. "(h)" was added by sec. 42 of Public No. 320, 74th Congress, approved August 24, 1935.

#### APPORTIONMENT

SEC. 5. (a) When an allotment is made, in order to prevent unfair competition and unfair trade practices in marketing cotton in the channels of interstate and foreign commerce, the Secretary of Agriculture shall apportion to the several cotton-producing States the number of bales the marketing of which may be exempt from the tax herein levied, which shall be determined by the ratio of the average number of bales produced in each State during the five crop years preceding the passage of this Act to the average number of bales produced in all the States during the same period: *Provided, however,* That no State shall receive an allotment of less than two hundred thousand bales of cotton if in any one year of five years prior to this date the production of the State equalled two hundred and fifty thousand bales: **Provided further, That no State shall receive an allotment for any crop year beginning with the crop year 1935-1936 of less than four thousand bales of cotton if during any one of the ten crop years prior to the date of the enactment of this Act the production of such State exceeded five thousand bales. And be it further provided that after the year 1935 no State shall receive an allotment of less than 80,000 bales of cotton if in any one year of five years prior to the date of the passage of said Act the production of the State equaled 100,000 bales.** It is prima facie presumed that all cotton and its processed products will move in interstate or foreign commerce.

The first proviso in black face type was added by Public Resolution No. 47, 74th Congress, approved August 9, 1935. The sentence immediately following, also in black face type, was added by sec. 39 (c) of Public No. 320, 74th Congress, approved August 24, 1935.

(b) The amount allotted to each State (less the amounts allotted under section 8) shall be apportioned by the Secretary of Agriculture to the several counties in such State on a basis and ratio, applied to such counties, similar to that set forth in subsection (a), except that, for the purposes of this subsection, there shall be excluded from the calculation of the average production of cotton in any county an amount of cotton produced in such county during any crop year or years during which the Secretary of Agriculture finds that production of cotton in such county was reduced so substantially by



unusual drought, storm, flood, insect pests, or other uncontrollable natural cause that the inclusion of the cotton produced in such crop year or years would result in an apportionment to such county based upon an abnormally low production of such county, and in such cases the average production shall be calculated on the basis of the crop years and production of the years remaining of the period set forth in subsection (a).

#### APPLICATIONS FOR CERTIFICATES

SEC. 6. A producer of cotton desiring to secure a tax-exemption certificate may file an application therefor with the agent designated by the Secretary of Agriculture, accompanied by a statement under oath showing the approximate quantity of cotton produced on the lands presently owned, rented, share-cropped, or controlled by the applicant during a representative period fixed by the Secretary of Agriculture, and also the number of acres of land in said lands in actual cultivation for the three preceding years, and the quantity of cotton, in the best judgment of the applicant, said lands would have produced if all the cultivated land had been planted to cotton. Said application shall state any other facts which may be required by the Secretary of Agriculture. No certificate of exemption shall be issued and no allotment shall be made to any producer unless he agrees to comply with such conditions and limitations on the production of agricultural commodities by him as the Secretary of Agriculture may, from time to time, prescribe to assure the cooperation of such producer in the reduction programs of the Agricultural Adjustment Administration and to prevent expansion on lands leased by the Government of competitive production by such producer of agricultural commodities other than cotton and the allotment of and certificates of exemption issued to any producer shall be subject to revocation on violation by him of such conditions and limitations, and no criminal penalties shall apply to the violation of this provision.

SEC. 7. (a) The amount of cotton allotted to any county pursuant to section 5 (b) shall be apportioned by the Secretary of Agriculture to farms on which cotton has been grown within such county. Such allotments to any farm shall be made upon application therefor and may be made by the Secretary based upon—

(1) A percentage of the average annual cotton production of the farm for a fair representative period; or

(2) By ascertaining the amount of cotton the farm would have produced during a fair representative period if all the cultivated land had been planted to cotton, and then reducing such amount by such percentage (which shall be applied uniformly within the county to all farms to which the allotment is made under this paragraph) as will be sufficient to bring the total of the farm allotments within the county's allotment; or

(3) Upon such basis as the Secretary of Agriculture deems fair and just, and will apply to all farms to which the allotment is made under this paragraph uniformly, within the county, on the basis or classification adopted. The Secretary of Agriculture, in determining the manner of allotment to individual farmers, shall provide that the

farmers who have voluntarily reduced their cotton acreage shall not be penalized in favor of those farmers who have not done so.

(b) After the crop year 1934-1935 the apportionment shall not be on the basis set out in paragraph (1) of subsection (a) of this section.

(c) The total allotment to farms in each county under this section shall not exceed the approximate number of bales allotted to that county under section 5 (b).

(d) For each crop year subsequent to the crop year 1934-1935 in which this Act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary of Agriculture prior to the date of the adoption of this amendment, or to require any reallocation.

Subsec. "(d)" was added by sec. 39 of Public No. 320, 74th Congress, approved August 24, 1935.

SEC. 8. Whenever an allotment is made pursuant to section 3, not to exceed 10 per centum of the number of bales allotted to each State shall be deducted from the number of bales allotted to such State, and allotted in such State—

(a) To producers of cotton on farms where for the preceding three years less than one third of the cultivated land on such farms has been planted to cotton;

(b) To producers of cotton on farms not previously used in cotton production;

(c) To producers of cotton on farms where, for the preceding five years, normal cotton production has been reduced by reason of drought, storm, flood, insect pests, or other uncontrollable natural cause; and

(d) To producers of cotton on farms where, for the preceding three years, acreage theretofore planted to cotton has been voluntarily reduced so that the amount of reduction in cotton production on such farms is greater than the amount which the Secretary finds would have been an equitable reduction applicable to such farms in carrying out a reasonable reduction program.

The allotments provided for in this section shall be in addition to the amounts apportioned to the counties under section 5 (b).



## EXEMPTION CERTIFICATES

SEC. 9. (a) Exemption certificates shall be issued by the Secretary of Agriculture, upon application therefor, but only upon proof satisfactory to the Secretary that the producer is entitled thereto pursuant to this Act and the regulations thereunder. Any certificate erroneously issued shall be void upon a demand in writing for its return made by the Secretary of Agriculture to the person to whom such certificate was issued.

(b) The right to a certificate of exemption shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe.

(c) The certificate of exemption shall specify the amount of cotton exempt from the tax under section 4 (e) (2).

(d) Any and all certificates of exemption may be transferred or assigned in whole or in part in such manner as the Secretary of Agriculture may prescribe and shall be issued with detachable coupons or in such other form or forms to be prescribed by the Secretary of Agriculture as will facilitate such transfer or assignment. **No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State.** Any person who, in violation of the regulations made by the Secretary of Agriculture, (1) secures certificates of exemption or bale tags from another by sharp practices, or (2) speculates in certificates of exemption or bale tags, and any person securing certificates of exemption or bale tags from another person by fraud or coercion shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both.

The matter in black face type was added by sec. 41 of Public No. 320, 74th Congress, approved August 24, 1935.

## IDENTIFICATION OF TAX-PAID OR EXEMPT COTTON

SEC. 10. (a) Upon the payment of the tax on any cotton, or the surrender of exemption certificates covering cotton, the collector receiving such payment or certificates shall deliver to the person so paying or surrendering an appropriate number of bale tags which shall be affixed to such cotton.

(b) All cotton imported from a foreign country (including the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) shall be packed and stamped, tagged, or otherwise identified, in addition to any import stamp indicating inspection at the customhouse, before such cotton is withdrawn therefrom.

(c) Every person who, at the time the tax becomes effective in any crop year, holds for sale (or use in the manufacture or production of an article intended for sale) any lint cotton in bales harvested during a year with respect to which the tax was not in effect may, upon application within fifteen days after the tax becomes effective, and any publicly owned experimental station or agricultural laboratory may, upon application at the time of ginning cotton harvested



by it, receive an appropriate number of bale tags. Such bale tags shall be promptly affixed to the bales of lint cotton so held.

(d) In the case of any cotton in existence at the beginning of any crop year with respect to which the tax becomes effective and owned, held, or controlled by the United States, or any department or agency thereof, the Commissioner shall supply bale tags therefor free of charge, upon application by the head of the department or agency. Upon application of the Secretary of Agriculture, bale tags shall be issued free of charge for cotton held in the 1933 Cotton Producers' Pool. Bale tags issued under this section shall be securely affixed to such cotton.

#### DESTRUCTION OF MEANS OF IDENTIFICATION

SEC. 11. Every person emptying or breaking any bale stamped, tagged, or otherwise identified under the provisions of this Act shall, at the time of emptying or breaking such bale, destroy the bale tag.

#### REGULATIONS BY THE COMMISSIONER

SEC. 12. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe (a) regulations with respect to the time and manner of applying for, issuing, affixing, and destroying bale tags, and the method of accounting for receipts from the sale of and for the use of such bale tags, and (b) such other regulations as he shall deem necessary for the enforcement of the taxing provisions of this Act.

#### INFORMATION RETURNS

SEC. 13. (a) All persons, in whatever capacity acting, including producers, ginner, processors of cotton, and common carriers, having information with respect to cotton produced, may be required to make a return in regard thereto, setting forth the amount of cotton delivered, the name and address of the person who delivered said cotton, the amount of lint cotton produced therefrom, and any other and further information which the Commissioner, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration of the tax. Any person required to make such return shall render a true and accurate return to the Commissioner.

(b) Any person willfully failing or refusing to file such a return, or filing a willfully false return, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

#### GENERAL AND PENAL PROVISIONS

SEC. 14. (a) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 800 of the Revenue Act of 1926, shall, insofar as applicable and not inconsistent with the provisions of this Act, be applicable with respect to taxes imposed by this Act.

(b) Except as may be permitted by regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury,

with due regard for the protection of the revenue, no person shall: (1) Transport, except for storing or warehousing, under the provisions of section 4 (f) beyond the boundaries of the county where produced any lint cotton to which a bale tag issued under this Act is not attached; or (2) sell, purchase, or open any bale of lint cotton to which a bale tag issued under this Act is not attached.

(c) No seed cotton harvested during a crop year with respect to which the tax is in effect shall be exported from the United States or any possession thereof to which this Act applies to any possession of the United States to which this Act does not apply or to any foreign country.

(d) Any person who willfully violates any provision of this Act, or who willfully fails to pay, when due, any tax imposed under this Act, or who, with intent to defraud, falsely makes, forges, alters, or counterfeits any bale tag or certificate of exemption made or used under this Act, or who uses, sells, or has in his possession any such forged, altered, or counterfeited bale tag or certificate of exemption, or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any bale tag which should have been destroyed as required by this Act, or who makes, uses, sells, or has in his possession any paper in imitation of the paper used in the manufacture of any such bale tag or certificate of exemption, or who reuses any bale tag required to be destroyed by this Act, or who places any cotton in any bale which has been filled and stamped, tagged, or otherwise identified under this Act, without destroying the bale tag previously affixed to such bale, or who affixes any bale tag issued under this Act to any bale of lint cotton on which any tax due is unpaid, or who makes any false statement in any application for bale tags or certificates of exemption under this Act, or who has in his possession any such bale tags or certificates of exemption obtained by him otherwise than as provided in this Act, shall on conviction be punished by a fine not exceeding \$1,000, or by imprisonment for not exceeding 6 months, or both.

(e) Any person who willfully violates any regulation issued by the Secretary of Agriculture or the Secretary of Agriculture and the Secretary of the Treasury under this Act, for the violation of which a special penalty is not provided, shall, on conviction thereof, be punished by a fine not exceeding \$200.

#### REGULATIONS BY THE SECRETARY OF AGRICULTURE

SEC. 15. (a) The Secretary of Agriculture is authorized to make such regulations as may be necessary to carry out the powers vested in him by the provisions of this Act.

(b) The Secretary of Agriculture may make regulations protecting the interests of share-croppers and tenants in the making of allotments and the issuance of tax-exemption certificates under this Act.

#### APPROPRIATIONS AUTHORIZED

SEC. 16. (a) There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, such sums as may be neces-

sary to carry out the provisions of this Act are authorized to be made available.

(c) The proceeds derived from the tax are hereby authorized to be appropriated to be made available to the Secretary of Agriculture for the purposes of carrying out the cotton program of the Agricultural Adjustment Administration, and for administrative expenses and refunds of taxes under this Act.

#### OFFICERS AND EMPLOYEES

SEC. 17. (a) The Secretary of Agriculture is authorized, in order to carry out the provisions of this Act, to appoint, without regard to the provisions of the civil service laws, such officers, agents, and employees, and to utilize such Federal officers and employees, and with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers and employees so appointed, except that rates so fixed shall not exceed the rates of compensation prescribed for comparable duties by such Act, as amended.

(b) Appropriations for administrative expenses under this Act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this Act with respect to cotton ginned during the crop year 1935-1936 or any subsequent crop year in which this Act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever.

The matter in black face type was added by sec. 40 of Public No. 320, 74th Congress, approved August 24, 1935.

#### PURCHASES AND SERVICES

SEC. 18. The administrative expenses provided for under this Act shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere for law books, periodicals, newspapers, and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law.

#### COLLECTION OF TAXES

SEC. 19. The taxes provided for by this Act shall be collected by the Commissioner of Internal Revenue under the direction of the Secretary of the Treasury. Taxes collected shall be paid into the Treasury of the United States.

#### REFUNDS

SEC. 20. (a) No refund of any tax, penalty, or sum of money paid shall be allowed under this Act unless claim therefor is presented



within six months after the date of payment of such tax, penalty, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this Act alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury, established in pursuance thereof; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim, unless the Commissioner renders a decision therein within that time, nor after the expiration of two years from the date of the payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after any such disallowance, notify the taxpayer thereof by registered mail.

#### SEPARABILITY OF PROVISIONS

SEC. 21. If any provision of this Act, or the applicability thereof to any person or circumstance, is held invalid, the remainder of this Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

#### GEOGRAPHICAL APPLICATION OF ACT

SEC. 22. The provisions of this Act shall be applicable to the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam.

#### DEFINITIONS

SEC. 23. As used in this Act—

(a) The term "person" means an individual, a partnership, joint-stock company, a corporation, or a firm.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means the collector of internal revenue.

(d) The term "ginning" means the separation of lint cotton from seed cotton.

(e) The term "tax" means the tax upon the ginning of cotton imposed by this Act.

(f) The term "lint cotton" means the fiber taken from seed cotton by ginning.

(g) The term "seed cotton" means the harvested fruit of the cotton plant.

(h) The term "bale tag" means nondetachable bale tag, stamp, or other means of identifying tax-paid or exempt cotton.

(i) The term "crop year" means the period from June 1 of one year to May 31 of the succeeding year, both dates inclusive.

The term "bale", when used in sections 3, 5, 7, and 8 to describe a quantity of cotton, means five hundred pounds of lint cotton.

SEC. 24. The Secretary of Agriculture is authorized to develop new and extended uses for cotton, and for such purpose there is authorized to be made available to the Secretary not to exceed \$500,000 out of the funds available to him under section 12 of the Agricultural Adjustment Act.

SEC. 25. (a) *No tax-exemption certificates shall be issued to any person not engaged in production of cotton in the crop year during which such certificates are issued.*

(b) *Whenever after apportionment under sections 7 and 8 any surplus number of bales remain of the amount allotted to any county under section 5 (b) such surplus bales shall be allotted, in such quantities as the Secretary of Agriculture determines, to such other counties within the State as the Secretary of Agriculture determines have an insufficient allotment. Said bales shall be apportioned, pursuant to sections 7 and 8, within the respective counties to which allotted, but in no case shall any farm receive any of such allotment so as to receive a total allotment in excess of its estimated production for the crop year in which such allotment is made.*

(c) *In computing the production of any State pursuant to section 5 (a) the total production of cotton for such State in the five-year period, 1928-1932, inclusive, shall be used regardless of the length of staple of such production.*

"Sec. 25" was added by Public Resolution No. 45, 73rd Congress, approved June 20, 1934.

Approved, April 21, 1934.

## OATHS UNDER BANKHEAD COTTON ACT

48 Stat. 911; 7 U. S. C. § 726

[PUBLIC RESOLUTION—No. 29—73D CONGRESS]

[S. J. Res. 123]

### JOINT RESOLUTION

Empowering certain agents authorized by the Secretary of Agriculture to administer oaths to applicants for tax-exemption certificates under the Cotton Act of 1934.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That any county agent or member of a county committee or community committee of a cotton-production-control association who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of the Agricultural Adjustment Act shall, while he is acting as such agent, have power to administer oaths to persons making applications (if made within the county in which such agent is authorized to act) for tax-exemption certificates under section 6 of the Act of April 21, 1934, entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agriculture Adjustment Act, and for other purposes", but no fee or compensation shall be charged or received by any such agent for administering such an oath.

Approved, June 6, 1934.



[PUBLIC RESOLUTION—No. 47—74TH CONGRESS]

[H. J. Res. 258]

49 Stat. 570

JOINT RESOLUTION

To provide for certain State allotments under the Cotton Control Act.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 (a) of the Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, is amended by inserting before the period at the end of the first sentence thereof a colon and the following: "Provided further, That no State shall receive an allotment for any crop year beginning with the crop year 1935-1936 of less than four thousand bales of cotton if during any one of the ten crop years prior to the date of the enactment of this Act the production of such State exceeded five thousand bales".*

Approved, August 9, 1935.

KERR TOBACCO ACT, AS AMENDED, AT THE CLOSE  
OF THE FIRST SESSION OF THE 74TH CONGRESS,  
AUGUST 26, 1935 <sup>48</sup>

AN ACT

To place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, to raise revenue, and for other purposes.

The phrase "to raise revenue" was added by sec. 43 of Public No. 320, 74th Congress, approved August 24, 1935.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

DEFINITIONS

SECTION 1. As used in this Act—

(a) The term "person" includes an individual, a partnership, association, joint-stock company, corporation, or a firm, and imports the plural as well as the singular, as the case demands.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means the collector of internal revenue.

(d) The term "tobacco" means any type or types of tobacco specified in any agreement between the Secretary of Agriculture and a contracting producer.

(e) The term "sale" means the first bona fide sale of each pound of tobacco harvested subsequent to the enactment of this Act.

(f) The term "tax" means the tax imposed by this Act upon the sale of tobacco.

(g) The term "contracting producer" means any person who (pursuant to the provisions of the Agricultural Adjustment Act) agrees in writing with the Secretary of Agriculture to plant not more than the number of acres of tobacco, and/or to market not more than the number of pounds of tobacco, permitted in such agreement.

(h) The term "crop year" means the period May 1 to April 30.

(i) The term "Maryland tobacco" means the kind of air-cured tobacco classified as type 32 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

(j) The term "cigar leaf tobacco" means all leaf tobacco classified in classes 4, 5, and 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

<sup>48</sup> Throughout the text of this Act black face type is used to indicate matter added by the 74th Congress by way of amendment to the Kerr Tobacco Act, Public, No. 483, 73d Congress, 48 Stat. 1275; 7 U. S. C. § 751, et. seq. In instances where the language was stricken or changed, comparative prints are used, in which heavy black brackets indicate the deleted matter.

(k) The term "Virginia sun-cured tobacco" means all sun-cured tobacco classified as type 37 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

(l) The term "Puerto Rican tobacco" means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

(m) The term "cigar-wrapper tobacco" means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118.

Subsecs. "(1)" and "(m)" were added by sec. 44 of Public No. 320, 74th Congress, approved August 24, 1935.

#### DECLARED POLICY

SEC. 2. It is hereby declared to be the policy of Congress to promote the orderly marketing of tobacco in interstate and foreign commerce, to enable producers of tobacco to stabilize their markets against undue and excessive fluctuations, to prevent unfair competition and practices in putting tobacco into the channels of interstate and foreign commerce, and to more effectively balance production and consumption of tobacco, **to raise revenue**, and to relieve the present emergency with respect to tobacco.

The phrase "to raise revenue" was added by sec. 45 of Public No. 320, 74th Congress, approved August 24, 1935.

#### IMPOSITION

SEC. 3. (a) There is hereby levied and assessed on the sale of tobacco with respect to which the tax is applicable a tax at the rate of 33½ per centum of the price for which such tobacco is sold: *Provided, however*, That if the Secretary of Agriculture determines and proclaims that the declared policy of this Act is best effectuated thereby, the rate of tax shall, for such period as the Secretary of Agriculture designates, be at such lower rate (not less than 25 per centum of the price for which such tobacco is sold) as he may prescribe.

(b) The tax provided for by subsection (a) of this section shall be applicable to all tobacco harvested in the crop year 1934-1935, except Maryland tobacco, Virginia sun-cured tobacco, and cigar leaf tobacco **and to all tobacco harvested in the crop year 1935-1936, except Maryland tobacco, Puerto Rican tobacco, and cigar wrapper tobacco.** Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax **upon any particular type of tobacco** is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this Act, and (2) **that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco,** he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the



tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939.

The matter in black face type was added by sec. 46 of Public No. 320, 74th Congress, approved August 24, 1935. The matter deleted by said sec. 46 of Public No. 320 is shown within heavy brackets in the following comparative print:

(b) The tax provided for by subsection (a) of this section shall be applicable to all tobacco harvested in the crop year 1934-1935, except Maryland tobacco, Virginia sun-cured tobacco, and cigar leaf tobacco [.] and to all tobacco harvested in the crop year 1935-1936, except Maryland tobacco, Puerto Rican tobacco, and cigar wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines [that the persons who own, rent, share crop, or control three-fourths of the land customarily engaged in the production of any particular type of tobacco favor the levy of the tax thereon and] (1) that the imposition of the tax [thereon] upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this Act, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after [April 30, 1936] April 30, 1939.

(c) The provisions of this Act shall be applicable to the United States and its possessions, except the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam.

#### EXEMPTIONS

SEC. 4. (a) No tax shall be imposed under this Act—

(1) Upon the tobacco harvested by any publicly owned experimental station or agricultural laboratory; or

(2) Upon tobacco harvested prior to the crop year 1934-1935.

(b) Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, every person who, at the time the tax becomes applicable with respect

to any type of tobacco, holds for sale (or use in the manufacture or production of an article intended for sale) any tobacco of such type harvested prior to the crop year 1934-1935 shall cause such tobacco to be tagged, stamped, or otherwise identified as tax-exempt tobacco.

SEC. 5. (a) (1) In addition to rental or benefit payments which under any provision of existing law the Secretary of Agriculture is authorized to make in connection with agreements with producers providing for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, the Secretary of Agriculture is hereby authorized and directed to issue (in each crop year wherein any type of tobacco is harvested to which the tax is applicable) to each contracting producer nontransferable tax-payment warrants (each such warrant to be expressed in pounds of tobacco of a particular type). Upon surrender of any warrant by any contracting producer to the collector, it shall be accepted by the collector and the Secretary of the Treasury in payment of the tax on any sale by such contracting producer of the type of tobacco specified in the warrant not exceeding in amount the amount of tobacco covered by such warrant. Any contracting producer shall be entitled to receive such warrants covering amounts of any type of tobacco produced by him equal (1) to the number of pounds of tobacco of such type which such contracting producer is permitted to market under any agreement between him and the Secretary of Agriculture, or (2) to the number of pounds of tobacco of such type which the Secretary of Agriculture estimates may be produced on a percentage of a base acreage, which percentage and base acreage shall be determined as provided in any agreement between the Secretary of Agriculture and such contracting producer.

(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: Provided, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer.

The matter in black face type was added by sec. 47 of Public No. 320, 74th Congress, approved August 24, 1935.

(b) **There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 per centum of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this Act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted:**



Provided, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering one thousand five hundred pounds or less of any type of tobacco. Warrants issued under this subsection shall be accepted by the collector and the Secretary of the Treasury, upon surrender thereof by the person to whom issued, in payment of the tax on any sale by such person of the type of tobacco specified in the warrant not exceeding in amount the amount of tobacco covered by such warrant.

The matter in black face type was added by sec. 48 of Public No. 320, 74th Congress, approved August 24, 1935. The matter deleted by said sec. 48 of Public No. 320 is shown within heavy brackets in the following comparative print:

(b) ~~There shall be available for issuance by the Secretary of Agriculture~~ ~~may issue in any county~~ further warrants, covering an amount of tobacco of any type ~~not in excess of 6 per centum~~ equal to 3 per centum of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers ~~in such county,~~ under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type ~~in such county~~ who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco ~~reduction~~ contracts ~~offered pursuant to the Agricultural Adjustment Act~~. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this Act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: Provided, That warrants covering two-thirds of the amount of any type of tobacco ~~allotted under this subsection in any county~~ to cover which warrants are available under this subsection shall be issued ~~to growers whose allotments are 1,500 pounds or less~~, upon application therefor, only to persons who receive warrants covering one thousand five hundred pounds or less of any type of tobacco.

(c) Upon application therefor, the warrants provided for by subsections (a) and (b) of this section may be issued by the Secretary of Agriculture, or his duly authorized agent, in such manner, at such time or times, at such place or places, and in such form as the Secretary of Agriculture may prescribe.

(d) If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this Act or the Agricultural Adjustment Act, any warrant issued during such crop year to such person shall be void upon demand in writing for<sup>49</sup> the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this Act upon the sale of tobacco becomes void pursuant to this subsection either

<sup>49</sup> Deletion: The word "its" was stricken by sec. 49 of Public No. 320, 74th Congress, approved August 24, 1935.



**before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale.**

The matter in black face type was added by sec. 49 of Public No. 320, 74th Congress, approved August 24, 1935.

(e) The right to a tax-payment warrant under this section shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe.

(f) The Secretary of Agriculture may make regulations protecting the interests of share-croppers and tenants in the issuance of tax-payment warrants under this Act.

#### COLLECTION OF TAXES

SEC. 6. (a) The taxes provided for in this Act shall be paid by the seller and collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. Such taxes shall be paid into the Treasury of the United States.

(b) All provisions of law, including penalties (except section 1121 of the Revenue Act of 1926), applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this Act, be applicable in regard to all taxes imposed by this Act.

#### RULES AND REGULATIONS

SEC. 7. (a) The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe such rules and regulations as he may deem needful for the collection of the tax.

(b) The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this Act.

#### INFORMATION RETURNS

SEC. 8. (a) All producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury shall by regulations prescribe as necessary for the collection of the tax. Any person required to make such return shall render a true and accurate return to the Commissioner of Internal Revenue.

(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who

produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue.

Subsec. "(b)" was added by sec. 50 of Public No. 320, 74th Congress, approved August 24, 1935.

(c) Any person willfully failing or refusing to file **any** return **required to be filed under this section**, or filing willfully **any** false return, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000.

Subsec. "(c)" was originally subsection "(b)". Sec. 50 of Public No. 320, 74th Congress, approved August 24, 1935, added the matter in black face type and deleted the matter shown within heavy brackets in the following comparative print:

**[(b)]** (c) Any person willfully failing or refusing to file **[such a]** any return **[,]** **required to be filed under this section**, or filing **[a]** willfully any false return, shall be guilty of a misdemeanor and **[,]** upon conviction thereof **[,]** shall be punished by a fine of not more than \$1,000.

#### GENERAL AND PENAL PROVISIONS

SEC. 9. (a) No tax-payment warrant issued in accordance with this Act may be transferred or assigned either in whole or in part, except by the executor or other legal representative of a deceased producer to whom a tax-payment warrant has been issued under this Act. Any person who acquires a tax-payment warrant from another person or who transfers a tax-payment warrant to another person in violation of the provisions of this Act, or who violates any provision of this Act, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than six months' imprisonment, or both.

(b) Any person who, with intent to defraud, forges, makes, or counterfeits any tax-payment warrant or any stamp, tag, or other means of identification made or used under this Act, or makes any false entry upon such warrant or any false statement in any application for the issuance of such warrant, or who uses, sells, lends, or has in his possession any such altered, forged, or counterfeited warrant, stamp, tag, or other means of identification, or who makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such warrants, stamps, tags, or other means of identification, or who makes any false statement in any application with respect to the levying and collection of the tax, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000 or by imprisonment not exceeding five years, or both.

(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this Act shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 7 and 8 of this Act, but no fee or

compensation shall be charged or received by any such agent for administering such an oath.

Subsec. "(c)" was added by sec. 51 of Public No. 320, 74th Congress, approved August 24, 1935.

#### APPROPRIATIONS AND ADMINISTRATIVE EXPENSES

SEC. 10. (a) The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses,<sup>60</sup> refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this Act, and other payments under this Act. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of the tax which will be collected during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

The matter in black face type was added by sec. 52 of Public No. 320, 74th Congress, approved August 24, 1935.

(b) Out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, such sums as may be necessary for administrative expenses, refunds of taxes, and other payments under this Act are hereby made available.

(c) The Secretary of Agriculture is authorized in order to carry out the provisions of this Act to appoint, without regard to the provisions of the civil-service laws, such officers, agents, and employees, and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

(d) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law.

(e) The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this Act, such sums as are required to pay administrative expenses incurred and refunds made by such Department or agencies in the administration of this Act.

<sup>60</sup> Deletion: The word "and" was stricken by sec. 52 of Public No. 320, 74th Congress, approved August 24, 1935.



## REFUNDS

SEC. 11. (a) No refund of any tax, penalty, or interest paid under this Act shall be allowed unless claim therefor is presented within **one year** after the date of payment of such tax, penalty, or interest.

Sec. 53 of Public No. 320, 74th Congress, approved August 24, 1935, substituted "one year" for "six months," which amendment is made effective as of June 28, 1934.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this Act alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, under this Act; but such suit or proceeding may be maintained whether or not such tax, penalty, or interest has been paid under protest or duress. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim, unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of the payment of such tax, penalty, or interest, unless such suit or proceeding is begun within two years after the disallowance of the claim or of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after any such disallowance, notify the taxpayer thereof by mail.

## SEPARABILITY OF PROVISIONS

SEC. 12. If any provision of this Act, or the applicability thereof to any person or circumstance, is held invalid the remainder of this Act and the applicability thereof and of such provision to other persons or circumstances shall not be affected thereby.

## TERMINATION

SEC. 13. The tax shall terminate with respect to any type of tobacco at the end of the crop year current at the time the Secretary of Agriculture proclaims that rental and/or benefit payments under the Agricultural Adjustment Act are to be discontinued with respect to such type of tobacco or whenever the President finds and proclaims that the national economic emergency with respect to such type of tobacco has ended, whichever is the earlier.

SEC. 14. The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within thirty days after the date of the **proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 3 of this Act.**

Sec. 54 of Public No. 320, 74th Congress, approved August 24, 1935, struck out the phrase "enactment of this Act" and inserted in lieu thereof the matter in black face type.

SEC. 15. Having due regard to the welfare of domestic producers of tobacco and to the protection of domestic consumers thereof and

to a just relation between the price received by such domestic producers and the price paid by such domestic consumers and in other respects to effectuate the declared policy of this Act, the Secretary of Agriculture may from time to time, by orders or regulations:

(A) For each crop year in which any type of tobacco is harvested to which the tax is applicable, or for any part of such crop year, establish quotas for the importation into continental United States of cigar-leaf types of tobacco, and during such crop year readjust any such quotas. Such quotas shall be based on average quantities of such tobacco imported into continental United States during the crop years 1932-1933 and 1933-1934, except that in the case of tobacco imported from the Republic of Cuba, such quotas shall be based on average quantities of tobacco so imported during the crop years 1928-1933.<sup>51</sup>

(B) Allot the quotas provided for by subsection (A) to the importers of such tobacco in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of tobacco imported during the crop years 1932-1933 and 1933-1934 by such persons.

SEC. 16. After importation quotas therefor have been established, all cigar-leaf tobacco of any type imported into continental United States in excess of the quota for such type shall be subject to an import tax. The rate of the import tax, expressed in cents per pound, shall be determined by the Secretary of Agriculture as hereinafter provided. On May 1 of each crop year for which quotas are to be established pursuant to section 15, the Secretary of Agriculture shall determine (from available statistics of the Department of Agriculture) the average sales price per pound, during the preceding twelve months, of all domestic cigar-leaf tobacco the sale of which is to be taxed during the ensuing crop year under this Act. This average sales price, times the average per centum tax rate then current under this Act on the sale of such domestic cigar-leaf tobacco, shall be the rate per pound of the import tax and shall be proclaimed by the Secretary of Agriculture. The import tax shall be paid prior to the release of the tobacco subject thereto from customs custody or control.

As used in this and the preceding section "cigar-leaf types of tobacco" shall include cigars, which for the purposes of the quotas, allotments, and import tax provided for by said sections shall be translated into terms of raw cigar-leaf tobacco of the respective types from which such cigars are produced, pursuant to conversion factors established and proclaimed by the Secretary of Agriculture.

Approved, June 28, 1934.

<sup>51</sup> Passed Senate as 1926-33 but was engrossed as 1928-33. The House adopted the provision as engrossed.

# INVESTIGATION OF SALE AND DISTRIBUTION OF MILK BY FEDERAL TRADE COMMISSION

[H. Con. Res. 32]

## CONCURRENT RESOLUTION

Whereas an audit made by the Agricultural Adjustment Administration has revealed that distributors in four of the largest milksheds in the United States, for the five years ended December 31, 1933, made a net profit of 25.71 per centum on their net plant investment; and

Whereas this audit shows the net profits of distributors in each of the milksheds for the five-year period to be: Philadelphia (distributors handling 85 per centum of volume), 30.76 per centum; Boston (distributors handling 75 per centum of volume), 22.45 per centum; Saint Louis (distributors handling 67 per centum of volume), 14.64 per centum; and Chicago (distributors handling 90 per centum of volume), 25.84 per centum; and

Whereas during this same five-year period the wholesale price of milk sold by farmers declined 50 per centum, resulting in severe hardships and suffering to milk producers throughout the United States and strikes and violence in many rural and metropolitan centers; and

Whereas the aforesaid audit by the Agricultural Adjustment Administration has revealed net profits of milk distributors which tends to establish that similar conditions exist in other milksheds throughout the United States; and

Whereas an investigation in the District of Columbia pursuant to S. Res. 76, Seventy-third Congress, first session, revealed testimony which abundantly sustains the contention that over a period of years large milk distributors have attempted to create a monopoly in the District of Columbia, and largely as a result of these efforts farmers producing milk for the District of Columbia milkshed have received low returns for their product and have been placed at a serious disadvantage; and

Whereas the testimony adduced at hearings in the aforesaid investigation in the District of Columbia tends to prove that similar monopolistic efforts likewise exist in other milksheds in the United States; and

Whereas there is reason to believe that there exists a close tie between certain leaders of milk producers' cooperatives and milk distributors, which tie is unbeknown to milk producers and detrimental to their interests; and

Whereas the continuation of the practices now engaged in by milk distributors and certain leaders of milk cooperatives seriously endangers the efforts of the Agricultural Adjustment Administration and of the several States to alleviate and remedy the distress now widespread among dairy farmers in the United States, which distress if permitted to continue will result in the destruction of the already sorely pressed agricultural industry: Therefore be it



*Resolved by the House of Representatives (the Senate concurring),* That the Federal Trade Commission is authorized and directed to investigate conditions with respect to the sale and distribution of milk and other dairy products within the territorial limits of the United States by any person, partnership, association, cooperative, or corporation, with a view to determining particularly whether any such person, partnership, association, cooperative, or corporation is operating within any milkshed of the United States in such a manner as to substantially lessen competition or to tend to create a monopoly in the sale or distribution of such dairy products or is a party to any conspiracy in restraint of trade or commerce in any such dairy products, or is in any way monopolizing or attempting to monopolize such trade or commerce within the United States or any part thereof, or is using any unfair method of competition in connection with the sale or distribution of any such dairy products, or is in any way operating to depress the price of milk sold by producers. The Federal Trade Commission shall report to the House of Representatives as soon as practicable the result of its investigations, together with its recommendations, if any, for necessary remedial legislation.

Agreed to June 15, 1934.



